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**Triple disadvantage: when othered students, study an othered course at
an othered university – working-class, mature students' discursive
accounts of life on (and beyond) a two-year undergraduate Law degree**

A thesis submitted to Middlesex University in partial fulfilment of the requirements for
the degree of Doctor of Philosophy

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Abstract

A plethora of research has provided insight into how non-traditional (including working-class and/or mature) students experience three-year undergraduate degrees at public sector universities. This shows that for these students university is experienced differently to traditional students, with non-traditional students feeling relatively disadvantaged. Little is known, though, about how working-class, mature students experience a *two-year* undergraduate degree at private HEIs. Furthermore, research has failed to address how working-class, mature students experience their two-year undergraduate *Law* degree and how they discursively construct their student experience. This thesis reports on (semi-longitudinal) research conducted over two phases at one 'private' Law school in the south of England. Phase one constituted an 18-month period (between February 2014 to August 2015) of fieldwork. Follow-up interviews took place in May 2019 (phase two). The study comprised a range of qualitative methods: semi-structured interviews of Law students and Law tutors, focus group discussions, discourse analysis of various policy texts, and informal observations of the practices at the Law school; an analysis of which attempts to provide some insight into this under-researched area. The Foucauldian inspired analysis suggests that working-class, mature students in this study constructed their student experience via discourses connected to 'intensity', 'student as consumer/investor/partner', and 'employability' all of which were hegemonic, complex and shifting. The analysis of the data also suggests that the discourses worked to discursively (re)position the students as more or less powerful at different moments and in different contexts. These temporary (re)positionings of powerlessness had an impact on subjectivities to the extent of becoming further disadvantaged. The significance of this is that the nature of a two-year undergraduate Law degree and/or studying at a private HEI was found to exaggerate disadvantage. In particular, when constructing 'the student experience', the working-class, mature students variously drew upon, resisted and negotiated intensity, consumer, investor, partner and employability discourses - all of which impacted upon discursive (re)positionings and subjectivities. This study makes an original contribution to knowledge about working-class, mature students' experiences of disadvantage within HE. It exposes that this disadvantage is further intensified when pursuing an (Othered) fast-track undergraduate degree at an (Othered) private HEI. Consequently, when non-traditional students on 'those courses', at 'those places', are subjected to intensity, consumer, investor, partner, and employability discourses they are disproportionately and further positioned as powerless; amounting to triple disadvantage.

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Lastly, this thesis is dedicated to both my late mother (Kathleen) and late nephew (Harry) – both of whom, I am sure, are smiling – as I am now also.

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Chapter 1: Introduction

“Class is entirely intangible, and the way it affects things isn’t subject to scientific analysis, and it’s not supposed to be real but it’s pervasive and powerful. See; just like magic.”

Jo Walton ‘Among Others’ (2010, p.83)

This thesis directly responds to the above claim by offering an in-depth exploration of working-class, mature students’ experiences and discursive constructions of a two-year undergraduate Law degree. It addresses how power manifests in respect of both social class and age, to position working-class mature students in particular ways, at a particular historical-political moment in Higher Education (HE) in England. A diverse ‘example’¹ of working-class mature students provide the focus of this study which seeks to unearth how classed and aged subjectivities are negotiated whilst studying a two-year undergraduate Law degree - at ‘the Langham Institute’- a case study institution in the South of England². This study reveals how discourses are drawn upon, resisted and negotiated to (re)position students as more or less powerful – thereby shaping subjectivities and student experience. The thesis attends to the ‘*intangible*’ and ‘*pervasive*’, almost mystical, nature of social class (as it intersects with other social identities e.g. age, ‘race’, and gender) to argue that experiences of social class are embodied and real, but at the same time, socially constructed, slippery and context specific.

For multiple reasons, both personal and professional, I was drawn to this research issue. As a Senior Lecturer in Law, I was particularly struck by how Law students constructed their experience(s) in a variety of ways. Engaging with the literature was illuminating since it drew into sharp focus a gap in knowledge about the discursive constructions of mature working-class students studying a two-year fast-track undergraduate Law degree. My personal and professional experiences of studying Law (as a working-class, mature student) and lecturing at a private sector HE institution that prizes student ‘choice’ and employability, and offers an ‘intensive’ fast-track Law degree to its students, provided the motivation to undertake in-depth research to explore further the complexities and contradictions that surfaced. This study aims to unsettle and problematize many of the dominant discourses that shape the fields of HE and Law and so make known the experiences of a triply marginalised group of students.

¹ I use the term ‘example’ (rather than ‘sample’) because, as I explain in chapter four, I am not seeking to be objective or representative of a wider population. Therefore, naming interviewees as ‘a sample’ would be misaligned with that claim.

² In order to maintain the anonymity of the case study institution, the pseudonym (‘the Langham Institute’) is used throughout this thesis.

Given that working-class, mature students experience disadvantage within HE, I argue that this is doubled when they study on an (Othered³) fast-track undergraduate degree at an (Othered) private HEI. Consequently, the major original contribution to knowledge addresses how non-traditional students on 'those courses' at 'those places' are subject to discourses of intensity, consumer, investor, partner and employability which actively (re)positions them as yet even more powerless – as triply disadvantaged. In chapter nine, I outline other (more peripheral) contributions to knowledge that this study makes to the overlapping fields of HE and Law.

Scholarly Reasons

Working-class, mature students in HE present a persistent challenge to universities and policy-makers. Despite sustained government-driven attempts to widen participation (and more recently enhance social mobility), working-class mature students remain disproportionately under-represented within English universities. It is interesting to note that fewer working-class, older students attend university compared with their middle-class, younger counterparts (Reay, David and Ball, 2005; Gilardi and Guglielmetti, 2011; Hannon, Faas and O'Sullivan, 2017).

The HE system is actively weighted against working-class, mature students (Reay, Ball and David, 2002; Reay, 2003; Tett, 2004; Crozier, Reay, Clayton, Colliander and Grinstead, 2008; Jack, 2019). Mature working-class students' experiences of university are qualitatively different to those of their middle-class, younger counterparts (Tett, 2004; Reay et al., 2005). The small proportion of working-class, mature students to pursue HE are conspicuous by their difference; they 'stand out' and consequently find it hard to 'fit in' (Reay, Crozier and Clayton, 2009a). This disadvantage is partly explained by an alien and alienating HE culture that constructs working-class, mature students as 'Other' or inferior to middle-class, younger students (Read, Archer and Leathwood, 2003). The university culture, cultivated through certain discourses such as 'independent learner', privileges middle-class, younger students and disadvantages those who are working-class and mature (ibid.). Difficulty also often arises from the need for working-class, mature students to pursue paid work and/or attend to care commitments while at university (Chapman, Parmar and Trotter, 2007; Reay et al., 2009a; Williams and Kane, 2010). For working-class, mature students such obligations leave less time for study, assessments and interacting with peers. Further disadvantage commonly arises because

³ I write 'Other/ed' with a capital letter because this distinguishes the word from its ordinary usage and elevates its significance throughout this thesis. Additionally, other authors e.g. Costley and Gibbs (2006); Burke, Crozier and Misiaszek (2017) have used it in this way.

HE is classed and aged (as well as 'raced' and gendered), and consequently working-class, mature students often find themselves at the bottom of the '*hierarchy of universities*' (Leathwood and O'Connell, 2003, p.612) i.e. studying at new universities and private HE providers.

Theoretical Framework

Theoretically this research is framed by Foucault's philosophical writings. An immersion in this field of enquiry highlighted the widespread appeal of Pierre Bourdieu's multiple works. Bourdieu's theorisation of social class has been important and influential in the field of (higher) education research. However, I was sceptical that taking up this framework would yield fresh insights or meaningfully extend established and existing debates about classed and aged experiences of higher education. I was drawn to Foucault's philosophy since it allows for the sticking power of social constructions via discourse (Francis, 1998; Read et al., 2003; Osgood, 2012; Burr, 2015; Burke et al., 2017) to be attended to. Within this paradigm, it becomes possible to problematize the taken-for-granted ideas that circulate within and across discursive fields. This project of dismantling, deconstructing, problematizing and critiquing the seemingly obvious offers important opportunities to expose social injustices as they routinely play out in everyday experiences. Recognising that reality is socially constructed provides opportunities to conceive of subjects and objects as meaning different things to different people; meanings that are context specific, fluid, contingent and that will inevitably change over time, place and space.

Applying a Foucauldian theoretical lens to this research allows existing debates to be extended in important ways. By seeking alternative readings of taken for granted assumptions pervading this area of HE, existing knowledge/'truth' claims can be problematized so that they can '*enable us to think about education differently*' (Ball, 2017, p.i) and '*new ways of knowing become possible*' (Osgood, 2012, p.2). Troubling universal fixed 'truths' is also important because it leads to questioning entrenched ideas, which often get presented as common sense, reasonable, and based on scientific 'objective' knowledge (Osgood, 2017). They are frequently harmful to the individuals that are subjected to them. Thus, a questioning approach to universal 'truths' can expose power asymmetries in relation to social identity markers. Taking this approach to investigate the classed, aged, gendered and 'raced' experiences of fast-track Law degrees places a fresh complexion on the discourses surrounding 'the student experience', 'students as consumer, investor or partner', the 'intensity' of two-year degrees, the 'hierarchy of universities', and the 'employability' of Law students. Moreover, it has allowed a

problematization of *'hegemonic discourses'* (Osgood, 2012, p.31) in relation to, for example, 'the intensity' of fast-track degrees, by offering a re-reading and hence alternative construction of the fast-track Law students' experience.

Troubling 'the student experience' discourse

This research places a much-needed focus on 'the student experience' discourse which flows through national and institutional policies, and practices (Sabri, 2011; Brittain, 2013). 'The student experience' discourse has been cultivated by Government and is now widely circulating, to the extent that it now has an *'aura of a sacred utterance'* within HE, and it appears to give students both *'a choice'* and *'a voice'* (Sabri, 2011, p.657). Currently *'under-researched'*, legal (higher) education and in particular *'the student experience'* (Cownie, 2010, p.860) therefore are also areas that require attention (Cownie and Bradney, 2017).

Chapter two sets out the inconsistent conceptualisations of 'the student experience' presented in current literature. Conceptualisations include student engagement (Davies, Howard and Slack, 2009), student satisfaction (Williams and Kane, 2010; HEFCE, 2011; Gibbs and Dean, 2014), student happiness (Gibbs and Dean, 2014), student interaction (Jones, 2018) and student integration (Chapman et al., 2007), among others. Accordingly, 'the student experience' means different things to different researchers (Leathwood, 2004) and, in turn, this accounts for some inconsistent findings. For example, Davies et al. (2009) found that fast-track students received a more positive experience compared with their counterparts on a standard degree. Conversely, HEFCE (2011) cited a National Student Survey⁴ (NSS) where 81 per cent of students on standard degrees were satisfied with their experience compared with only 74 per cent on fast-track degrees. Davies et al. (2009) conceptualise 'the student experience' as student engagement whereas the NSS conceptualises it as student satisfaction, such inconsistent conceptualisations account for variation in empirical findings. This highlights a tension to be addressed by exploring what working-class, mature students consider important in their experience of a fast-track Law degree.

Why fast-track?

Two-year undergraduate degrees provide an interesting focus because of the relative newness of this mode of study in the UK (McCaig, Bowers-Brown and Drew, 2007; Huxley, Green, Swift and Pollard, 2017). To date, very little is known about fast-track degrees and even less about working-class, mature students' experiences of them. This

⁴ Now called the National Survey for Students

coupled with a renewed political interest in two-year undergraduate degrees (Boyd, 2017; Boast and Richardson, 2018), provides a sound justification for making them the focus of this research. Interestingly, although two-year degrees have been popular in the field of Law (Huxley et al., 2017) very little is known about how Law students experience this mode of study. Additionally, Law degrees tend to exhibit a reputation based upon the types of student to have traditionally studied the subject who are readily associated with powerful groups. Law students are often aligned to an 'ideal' type i.e. white, male, upper or middle-class and young (Burke and McManus, 2011). Implicit assumptions about Law students' intellect and future earning potential (Britton, Dearden, van der Erve and Waltmann, 2020) are embedded within the positionings that frame them as 'ideal' candidates for Law degrees. However, the alignment is inaccurate since only half of all Law graduates ultimately secure careers in the legal profession (Sommerlad, Harris-Short, Vaughan and Young, 2015) and of those who do most are predominantly white, male and middle-class (ibid.). Recognising the legal profession as elitist (Budd, 2017) may partly explain this; as a classed, raced and gendered sector it is predominantly made up of middle-class, white men (and at graduate entry-level *young*, white, middle-class men) which is especially the case in larger city firms (Ashley, 2010; Sommerlad, Webley, Muzio, Tomlinson and Duff, 2010).

Aside from a curiosity fuelled by a concern for social justice, my own subjective experiences influenced the choice of research topic. I now offer a reflexive account of the ways in which subjective experiences and my multiple classed, gendered and aged identity formations shaped engagement with this research.

Researcher Subjectivity

Discussed more fully in chapter four, I broadly identify as working-class. This has shifted (and continues to shift) dependent upon the places, spaces, and historical moments in which I am located. While growing up in Essex in the 1970 and 80s, I invested in a modernist explanation of social class. I conceived of social class in terms of economic wealth and job status, primarily because income and occupation seemed to pervade the determinants of class position that circulate within dominant (Marxist and Weberian-informed) discourses. I grew up with two older sisters and working(-class) parents. My dad worked as a High court bailiff and my mother initially was a factory machinist and then latterly worked as an auxiliary nurse. In spite of that, when I reflect on my classed trajectory, I find myself occupying a middle-class sensibility in adulthood because of my educational successes and my career trajectory (Walkerdine, 1990; Reay, 1997). Making sense of my classed positioning has involved drawing upon both modernist and

Bourdieuian frameworks, which position me as 'privileged'. As a first-generation entrant into HE, I find myself constantly reworking my classed identity, and I regularly encounter a conscious effort to resist being positioned as a particular sort of subject through a set of objectifying discourses. I regularly attempt to reclaim my working-class subjectivity by investing in a 'hard worker' discourse that attributes success to toiling, labouring and tenacity. Nevertheless, I find myself more commonly framed by a set of other discourses that construct me as a middle-class, neo-liberal subject. Living and working in London further reinforces particular ideas about who I am, and what I have come to represent – arguably, a metropolitan subject.

Returning to Essex to visit family and friends, most of whom are non-graduates, I am positioned as 'clever' and a middle-class subjectivity is conferred upon me on the basis of what I have come to represent. However, when moving through 'space' at work - a public sector (new) university and a middle-class milieu (Crozier et al., 2008), I am hailed by a contradictory set of discourses that frame my subjectivity differently. Surrounded by erudite, ('authentic') middle-class colleagues I encounter the resurfacing of other (working-class deficit) discourses that seek to offer a contradictory subject position - that of '*working-class thicks*' (Stanley, 1995, p.168). I find myself wrestling with these contradictory subject positions and the unsettling discourses that shift, contort and ultimately shut down what it is possible for 'people like me' to be(come).

Identifying as mature student

I also identify as a 'mature student'. When studying for a PhD (in my forties), I have been a part-time student and have worked full-time. By contrast, as an undergraduate, I undertook paid work only during the holidays. Reflecting back I appreciate that any '*[...] identity [...] transcends time and crisscrosses backwards and forwards into imagined futures and memories of the past*' (Maguire, 2005, p.5). I also recognise the policies, practices and discourses of HEIs pertaining to mature students are often weighted against them. For example, some universities have policies and practices that allow PhD students to 'write up' (free of charge) within a year. Accordingly, the writing-up period for a part-time student is the same as for a full-time one. This 'one size fits all' approach is not proportionate to the average period of eight years for a part-time PhD and four years for a full-time student. Given that part-time students are more inclined to be older (Gardner and Gopaul, 2012) and full-time students younger (ibid.), this policy/practice could be considered indirect discrimination based on the protected characteristic of age. Part-time PhD students (who tend to have full-time work and/or care commitments) are less prone to be able to write-up within one year. Conversely, traditional full-time students

(unlikely to have other commitments) are better positioned to write-up on time. Consequently, part-time PhD students suffer a disadvantage and are (inadvertently) penalised financially when the writing-up period ends.

Planning the future

From the age of 13 I planned to study Law at university but at that age I was uncertain what it might entail, not having any relatives who had studied Law or had been to university. After leaving secondary school I attended a local sixth form college to study 'A' levels but upon reflection I was not a committed student: I was less interested in study and more interested in music (The Cure and The Smiths), friends (Simon and Julie) and socialising (at the Pink Toothbrush)! I was disappointed with my 'A' level grades which were insufficient to study Law; I consequently read a Sociology degree instead which proved to be incredibly enriching. In 1990 I graduated with an 'upper second' from an ex-polytechnic. I then progressed to a (full-time) graduate Law conversion course (the Common Professional Exam (CPE), which I was immensely proud of. With the passage of time I recognise the '*affective response*' (Ahmed, 2014, p.28) that this critical juncture produced. It is possible to trace the discourses that circulate(d) about Law students and the CPE i.e. Law students are constructed as 'clever' which is further reinforced by the CPE's construction as 'intensive'. Arguably, both discourses were feeding into each other and impacted upon my new Law student subjectivity but despite, or perhaps because of, this, at the age of 26 I qualified (rather proudly) as a solicitor.

Experiencing 'student' and teaching legal

Over time I have had many student experiences, including an undergraduate Sociology student experience and two postgraduate ones (at an elite private Law school and a red-brick university). Although I have enjoyed my student experiences, upon reflection, what pervades them is *difference*: a difference in experiences. I now recognise that this can be aligned to discourses surrounding the HE hierarchy. My undergraduate student experience was a time when I was relentlessly subjected to discourses (from friends, relatives and the media) of a '*hierarchy of universities*' (Leathwood and O'Connell, 2003, p.612). This positioned my HEI at the bottom and, by implication, me as inauthentic and 'Othered'. In order to negotiate this discursive positioning I 'chose' to attend different ('elite') HEIs for postgraduate (Law) programmes. This re-positioned me as 'powerful', inflecting my Law student subjectivity for a period of time.

Since 2004, I have taught Law in public sector HEIs, primarily to post-graduate students, but I also taught at the Langham Institute on a two-year Law degree. To ensure research

data were accessible and that answering research questions was feasible, it made sense to focus on two-year Law degrees at the Langham Institute. As I outline in chapter four, the accessibility and feasibility of this research was an important part of the design.

When teaching at the Langham Institute, I became aware that Law students (and tutors) often drew upon, resisted and negotiated various discourses including the 'intensity' of the degree, the positionality of the Langham Institute, employability, and 'student as consumer'. I sensed the ways in which discourses pinned students (momentarily) to a position, which in many cases was harmful and oppressive. Thus, it was this concern with social (in)justice that prompted the research questions outlined below. Nevertheless, as I discuss in chapter three, I recognise my implication in the discourses that shape Law students' discursive constructions and attend to how they negotiate being triply Othered.

Constructing aims, objectives and questions

The choice of research focus was shaped by both scholarly engagement with the topic, and a deeper engagement with my own shifting subjectivities, which in turn influenced the construction of the aim, objectives and research questions. Set within the poststructuralist paradigm, the research aims to contribute knowledge to an under-researched area within HE i.e. how Law students (in England) experience their degree. In order to achieve this aim the specific objectives are to:

- explore working-class, mature students' experience of a fast-track Law degree;
- utilise a Foucauldian theoretical framework;
- attend to how social class and age of a Law student intersects with ethnicity and gender; and
- explore the relationship between discourses and 'the student experience' for fast-track Law students.

The overarching research question is: 'what are the experiences of working-class, mature students studying a two-year undergraduate Law degree?' From this question, I constructed three more precise research questions:

1. What discourses do working-class, mature students draw upon or resist in constructing their experiences of a two-year undergraduate Law degree, taught at a private Law school in the south of England?
2. In what ways and on what occasions do these discourses (re)position them, as powerful or powerless. That is:

(a) How exactly do these discourses (re)position them, as powerful or powerless

(b) When exactly do these discourses (re)position them, as powerful or powerless

3. To what extent do fast-track Law students negotiate these (re)positions?

I address the above questions throughout this thesis. It is divided into eight further chapters which are intended to be read sequentially.

Navigating the thesis

Chapter two sets the overall context for this research by locating this study within the broader field. As a means to map the major debates about contemporary HE this chapter includes discussions of the purpose of (higher) education; the experiences of university students; the construction of students and HE; and the 'intens(iv)e' nature of two-year undergraduate degrees. This is done by identifying the most pertinent studies, prevailing ideas, and research methods that have come to shape current thinking about working-class, mature students studying two-year undergraduate Law degrees. Mapping the field in this way highlights a number of key gaps in knowledge, which this study seeks to address.

The theoretical and conceptual framework is outlined in chapter three. A Foucauldian theoretical and conceptual framework is sketched which highlights the ontological and epistemological assumptions underpinning this study. A number of Foucauldian concepts: *discourse*, *power/knowledge*, *resistance*, *counter-discourse*, and *positioning* are set out which are later deployed throughout the thesis as a means to address the research questions. Locating the study within Foucault's philosophy inevitably raises implications for this study, which is discussed towards the end of the chapter. Establishing a clear theoretical framework is crucial to the selection of the most appropriate research methods (detailed in chapter four), this theoretical framing also informs the approach taken to an analysis of the data presented in chapters five to seven.

Chapter four outlines the methods used, and the methodological and other issues encountered. Given that one of the aims is to explore the experiences of working-class, mature students a conceptualisation of social class is presented. The chapter draws upon Foucault's philosophical tradition and in doing so I discuss the methodology that underpins the research methods chosen in order to arrive at a reasoned justification for the chosen research methods. To this end, I map out how the research design, fieldwork

methods and approach to data analysis are shaped by Foucault's epistemological and ontological assumptions. Towards the end of the chapter I discuss some of the ethical issues encountered in this research.

Discourse analysis of a selection of specific texts (i.e. government policies, the Langham Institute's undergraduate prospectus, and extracts from media articles) is presented in chapter five. This chapter bridges a gap between the preceding and subsequent chapters since it uncovers alignments as well as the many tensions and contradictions to emerge between and within the various textual accounts of HE. The myriad ways in which 'higher education', 'fast-track degrees' and 'HE students' are constructed in official texts is explored and exposed. Working with Foucault's concept of *connaissance*, allows for discursive fictions functioning as 'truth' to be unearthed and troubled. Many of the hegemonic discourses surrounding 'fast-track' undergraduate degrees, 'higher education' and 'HE students' impact upon students in detrimental ways. The chapter identifies specific functions and (negative) effects as relational to powerless subject positions, processes of Othering, and to (mis)*connaissance*, all of which is explored in greater depth in chapters five to seven.

Chapters six to eight seek to analyse and discuss data generated from empirical fieldwork. The chapters examine how students construct their experiences of a two-year undergraduate Law degree taught at a private HEI in the south of England. In Chapter six, I uncover how students construct their experiences via discourses of intensity. The discourses surrounding 'intensity' were nuanced and complex and so it was interesting to note how students were able to negotiate the powerful effects of discourse. The Law students variously constructed 'intensity' in fluid ways thereby taking some ownership of the concept and putting it to work in ways that strengthened their sense of self. This chapter, therefore, explores the extent to which the Law students drew upon, resisted and negotiated discourses of intensity in relation to their student experience. Firstly, the notion of 'intensity' as a social construct is troubled in order to dismantle, unsettle and trouble taken-for-granted assumptions that appear common sense and reasonable. Undertaking this deconstruction of the ways in which discourses operate allows a consideration of the '*function and effect*' (Osgood, 2012, p. 35) of intensity discourses – i.e. '*the affect*' (Ahmed, 2014) and discursive positionings that get occupied by the students.

An analysis of the constructions of 'the student experience' as something beyond and more complex than 'intensity' is offered in chapter seven. This involved identifying and exploring a range of discourses that currently work to frame the normative HE student.

Discourses of student as consumer, investor and/or partner circulate in contemporary debates, policies and practices that highlight a series of tensions, which were found to be hegemonic. I argue that hegemonic discourses have important implications for non-normative students (i.e. working-class, mature students on a two-year degree at a private HEI) and in turn how they are (re)positioned as multiply disadvantaged.

Chapter eight builds upon arguments made about intensity by offering an analysis of employability discourses which powerfully shape the ways in which the students make sense of their student experience. Attempting to fill a research gap I unearth some of the functions and direct effects of employability discourses on the students in relation to affective dimensions that contribute to discursive positioning, resistance and negotiation of those discourses. Analysis of the data suggests that discourses of employability (particularly in relation to Law as a subject discipline) position students in this study momentarily as yet more powerless than they are already within HE. Additionally, there is no support for the claim that fast-track degrees allow students to enter the (legal) workplace one year earlier, which is the ultimate promise presented through policies and institutional texts. This falsehood works to intensify injustices encountered by these students. Hegemonic discourses of intensity and employability work to produce enterprising neo-liberal working-class mature subjects committed to the 'cultivation of the self' – yet, such investments ring hollow when they fail to translate into accelerated academic outcomes or secure employment.

By bringing the threads of the thesis together chapter nine offers a conclusion. It begins by offering a summary of each of the eight chapters but furthermore it outlines the significance of each chapter. It sets out how the main finding of triple disadvantage makes an original contribution to knowledge in the field of HE studies. In addition, this chapter highlights a number of other innovations to the field of educational research principally in relation to some of the methodological techniques employed. The findings of this study are also noted as having a number of significant implications for policy and practice. The implications lead to a discussion of the impact this study might have for a range of stakeholders, and how it might be taken up and developed in future research. A number of 'blind spots' and limitations of this study are reflected upon as a means to provide insights into how such research might be refined in the future. A reflective account of the methodological, theoretical and practical lessons learnt from this research offers the reader a sense of what else, and how else, research with multiply disadvantaged students might be undertaken in order to address social (in)justices as they manifest in both policy and practice.

Chapter 2: Mapping the Landscape and Literature

Introduction

In the introductory chapter I outlined the overall context for this research. This chapter follows on from that by locating this study within the field. Mapping the major debates about contemporary higher education this chapter therefore includes a discussion of the purpose of (higher) education; the experiences of university students; the privatisation of HE; the construction of students and higher education; and the 'intensive' nature of two-year undergraduate degrees. This is done by identifying the most pertinent studies, prevailing ideas, and research methods that have come to shape current thinking about working-class, mature students studying two-year undergraduate Law degrees. Mapping the field in this way highlights a number of key gaps in knowledge, which this study seeks to address.

Mapping the Landscape

I begin mapping the field by discussing a contemporary debate in relation to higher education; the on-going debate about the purpose of education, including higher education.

Contesting the purpose of (higher) education

There are two competing positions about the purpose of education (including HE). One position takes a broader, collective view whereas the other standpoint takes a narrower, more rational, economic stance. The collective view holds that the purpose of attending university is largely to encourage individuals to engage with civic aspects of society (Campaign for the Public University, 2016; Holmwood, Hickey, Cohen and Wallis, 2016). This is to enable individuals to make sense of their world, from which society itself can benefit. The collective purpose of HE is a more traditional view but over time this has eroded and been silenced, almost to the point of being forgotten altogether (McGettigan, 2013). It has been replaced by a contemporary economisation of HE discourse, which has circulated within the academy for several decades. Since the early 1980s, neo-liberalism has reinforced narrow conceptualisations of the purpose of education both nationally and more generally across the globe (Tomlinson, 2005).

The 2010 Browne review and related changes to the ways in which HE is financed has

radically transformed the debate about the purpose of HE (Brown and Carasso, 2013; Campaign for the Public University, 2016). The debate about the purpose of HE has been reignited. In order to defend public universities, and to justify why they ought to be funded directly by the taxpayer (and not private finance) HE has witnessed the re-emergence of an argument about the importance of its collective purpose (McGettigan, 2013). The contemporary significance of collective purpose is especially important because, as Tomlinson (2005, p.223) maintains:

Education must [...] help people to make sense of the impact of global changes, combat resurgent xenophobic nationalism, recreate the idea of the common good and move beyond a tawdry subservience to market forces.

The collective purpose of HE is also important because it leads to public and social benefits (McGettigan, 2013; Holmwood et al., 2016). Those benefits include greater political engagement, improved health, and more trust between citizens. Indirectly, the benefits can also lead to economic prosperity for a nation (Campaign for the Public University, 2016).

The alternative position that promotes an economisation of HE discourse, takes a narrower, more economic and individualistic viewpoint regarding the purpose of HE (Stevens, 2004; Thornton, 2012; Campaign for the Public University, 2016; Holmwood et al., 2016) with an emphasis on making HE work for the economy and the individual. Within this discourse, the purpose of HE is to serve '*as an instrument of national economic development*' (Beckton, 2009, p.60) by producing skilled graduates, productive in a global market economy. Aiming for a vibrant economy in order to compete internationally is directly related to globalisation in that HE now looks increasingly similar worldwide (Thornton, 2012). In turn, global competition can be aligned to the rise of neo-liberalism around the world. Global neoliberalism though is deeply problematic, as Beck (2000, p.9) notes:

[...] neoliberal globalism' [with] 'the ideology of rule by the world market' [which] 'proceeds mono-causally and economically [...] reducing the multidimensionality of globalisation to a single, economic dimension, that is itself conceived in a linear fashion'.

Economising HE also highlights the investment aspects to the individual student (Tomlinson, 2005; McGettigan, 2013), encouraging attendance at university as an investment in a future life and for individual (rather than collective) benefit. Interestingly, the notion of 'investor' resonates with Freire's (1970) usage of a banking metaphor as it relates to education but manifests very differently than he had conceptualised. The current preoccupation with the economisation of HE can be linked to an employability discourse (Baker and Brown, 2007; Holmwood et al., 2016) prevalent within HE (Moreau and Leathwood, 2006a; Leathwood and Hey, 2009; Giroux, 2013). The problematization of an employability discourse is detailed later in this chapter. For now though, it is important to recognise that the economisation of HE places an emphasis on 'the vocational', thereby further narrowing ideas about the purpose of HE that is principally concerned with cultivating employable citizens for global economic prosperity. It is increasingly common for HEIs to invest ever more resources on students' acquisition of skills, STEM⁵ subjects and making students employable (Baker and Brown, 2007; Hinchliffe and Jolly, 2011; Jackson, 2016). The economisation of HE can be also linked to the increased conceptualisation of university students 'as consumer' in that students are increasingly constructed as paying for a service, and if they are unsatisfied consumers, they have the right and means to complain (Read et al., 2003; Beckton, 2009; Bates and Kaye, 2014).

Regardless of which discourses are drawn upon to make sense of the purpose of HE, the debate has a direct impact on the relationship that HE students have toward the academy. If HE is understood as making graduates economically useful for the nation's prosperity, then it is logical to construct students as 'consumers' or 'investors'. By contrast, if HE is viewed as a vital means to encourage graduates to engage democratically with public issues, then students are more likely to be valued as 'partners' or 'learners'. These discursive constructions of contemporary students are both interesting and troubling. I now go on to outline the ways in which students and HE are variously constructed via discourse.

Constructing students and higher education

Most of the research literature on how students are constructed draws upon an established 'student as consumer' discourse (Read et al., 2003; Tomlinson, 2005; Ainley and Cannan, 2005; Brown and Carasso, 2013; Mavelli, 2014; Laing and Laing, 2016).

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The discourse prevails because it appears to have been shaped by other significant trends and developments in educational policy i.e. the economisation of education (Tomlinson, 2005; Beckton, 2009; Neary and Winn, 2009;) and, in turn, the marketisation of education (Ball, 1990a; Le Grand and Bartlett, 1993; Lynch, 2006; Brown and Carasso, 2013; John and Fanghanel, 2016) via notions of competition and choice (Brighouse, 2000; Apple, 2005; Butler, Hamnett, Ramsden and Webber, 2007; Bunar and Ambrose, 2016). Even though most of the literature concentrates on the construction of 'student as consumer', some commentators (e.g. Lehmann, 2009; Woodfield, 2011) draw upon a 'student as investor' discourse. Both constructions though are characteristic of a neo-liberal (Giroux, 2013), and post-welfare (Tomlinson, 2005) state.

So, we might ask: what do the subjects and objects (e.g. students and HE generally) look like via a 'student as consumer' discourse? Students are constructed as serial complainers (Beckton, 2009; Finney and Finney, 2013) who know their consumer rights (Read et al., 2003; Brown and Carasso, 2013) and will exercise them to achieve satisfaction. Often this is the highest degree classification possible for the price they have paid for their degree (Laing and Laing, 2016). This part of the construction, in turn, often leads to accusations that in order for students to obtain a high degree classification there must be an inevitable 'dumbing down' of academic standards and/or an inflation of grades (Brown and Carasso, 2013; Laing and Laing, 2016). Similarly, universities are understood to be subject to the commodification of HE qualifications in that many are seen as delivering degrees that lead to a particular type of occupation in the job market (Brown and Carasso, 2013). Correspondingly, any change in a university's delivery (e.g. from a standard to a two-year degree) is often perceived as taking place within the context of a consumer-driven, flexible mode of delivery (Thornton, 2012).

The 'student as consumer' discourse also (re)constructs the power relations between the university and the student as one of disempowerment of the academic 'service provider' (Laing and Laing, 2016) at the expense of empowerment of the student (Read et al., 2003; Laing and Laing, 2016). Read et al. (2003, p.273) discovered that some non-traditional students saw themselves, via a '*discourse of resistance*', as students with consumer rights. This challenged the unequal power relations between the student and the university. However, if students in a post-welfare state are encouraged to be consumers (via increased choice and competition), '*but have little power to influence their society*' (Tomlinson, 2005, p.222) – a society that encourages them to become consumerist – it is likely that they (as consumers) do not have much choice or positional power in society at all. The 'student as consumer' narrative can be further problematized.

Students are constructed as mostly passive (Healey, Flint and Harrington, 2014) and, arguably, not all students are able to be effective consumers since HE is mediated through the intersecting social identities of students (Bamber and Tett, 2000). Additionally, unlike 'the real' consumer world, HE is not a retail product. The students who buy the products of HE should not be seen as consumers because, unlike a retail product, the benefits of 'consuming' HE are not normally realised until long after a student's university experience (McGettigan, 2013).

To deviate from this unflattering construction of students (and consequently HE), some commentators (e.g. Neary and Winn, 2009; Healey et al., 2014) have argued that students ought to be (re)imagined differently. Universities (rather than students) should reconstitute themselves so that they are truly able to co-construct knowledge (ibid.). Arguably, it is the responsibility of universities to change from within, to re-construct the academy (Nearey and Winn, 2009) so that students are viewed as co-producers. Accordingly, a newer construction has emerged in recent years, via a 'students as partners' discourse (Nearey and Winn, 2009; McCulloch, 2009; Carey, 2013; Healey et al., 2014; Tomlinson, 2016; Castiglione, 2018). Acting counter to the prevailing consumerist discourse, 'students as partners' draws upon a social constructionist paradigm (Neary and Winn, 2009). It is noticeable that most of the literature deals with 'students as partners' and very little (e.g. Hubbell, 2015) constructs 'students as learners'.

In terms of what subjects and objects look like via a 'students as partners' discourse, students are positioned as active agents in their own learning and their university experience overall (Healey et al., 2014). The student and the academic produce learning and teaching together in that both agentically contribute to the co-construction of knowledge (Neary and Winn, 2009; Nilsson and van Driel, 2010). In recent years, there appears to be some evidence of universities transforming themselves into co-productive entities with the move towards '*Open Knowledge and Open Access*' (Neary and Winn, 2009, p.137) approaches to knowledge creation. This perhaps provides a basis for a more co-productive relationship between academics and students. But when universities draw upon the 'students as partners' discourse it seems that it can denote being a partner in teaching and learning (e.g. co-designing the curriculum) and it can also extend to '*institutional governance, quality assurance activities, research strategies and policies, estates, community engagement, and other extra-curricular activities.*' (Healey et al., 2014, p.12). Other commentators (e.g. Neary and Winn, 2009) concur by stressing that the partnership should be more than students co-designing the university curriculum. Regardless, a concern to foster students as partners ought to be concerned with

cultivating an ethos that encourages student engagement (Healey et al., 2014), which, as discussed in the next section, is one way that 'the student experience' has been theorised.

The various ways that Law students construct themselves and their student experience is addressed in chapter seven. This research adds to the research landscape by underlining that all students are engaged in actively negotiating discourses of student as consumer, investor and/or partner by drawing upon other (counter) discourses. Navigating discourses held the promise of temporarily transforming their subject position(s) in complex and sometimes contradictory ways. I now turn to consider issues in relation to 'the student experience', paying special attention to how it has been conceptualised and the problems this presents.

The experiences of university students

There is a plethora of literature detailing the experiences of students at university. Even though the research literature from the UK on the experiences of students (of standard three-year degrees) is theoretically well informed (Ainley, 1994; Read et al., 2003; Ainley, 2008; Crozier et al., 2008; Reay et al., 2009a; Williams and Kane, 2010; Lehmann, 2012a; The Paired Peers Project, 2013; Burke et al., 2017) 'the student experience' is inconsistently conceptualised. Student experience conceptualisations include student engagement (Davies et al., 2009), student satisfaction (Williams and Kane, 2010; HEFCE, 2011; Gibbs and Dean, 2014), student happiness (Gibbs and Dean, 2014) and student integration (Chapman et al., 2007), among others. It is evident, therefore, that 'the student experience' means different things to different researchers (Leathwood, 2004) and this probably accounts for the inconsistent findings. For example, Davies et al. (2009) found that fast-track students at a public-sector university had received a more positive student experience compared with their counterparts on a standard degree. Conversely, HEFCE (2011, p.3) cited a National Student Survey (NSS) which discovered that 81 per cent of students on standard degrees were satisfied with their student experience compared with only 74 per cent of students on fast-track degrees. A probable explanation for this difference is that Davies et al. (2009) conceptualised 'the student experience' as student engagement whereas HEFCE (2011) cited the NSS, which conceptualises 'the student experience' in terms of student satisfaction. Accordingly, 'the student experience' will vary dramatically from one student to another. Even though '*the sacred utterance*' of '*the student experience*' (Sabri, 2011, p.567) suggests that there is a homogenised 'student' and a universal 'experience', this is not a universal truth because

there is student and institutional diversity across and within the academy (ibid.). The problematics, therefore, highlight a tension which has been addressed in this study by exploring what working-class, mature students think is important in assessing their student experience of a fast-track Law degree.

In terms of three-year standard degrees there is significant research drawing mainly upon a Bourdieurian framework on 'the student experience'. This includes the experience of Law students (Reay et al., 2009a) and some of it focuses on the social class background of students. Reay et al.'s (ibid.) research suggests that working-class students (including Law students) are often disadvantaged by not 'fitting in' at university because their student learner identity is frequently misaligned with their university's institutional habitus. Working-class students are also less inclined to be prepared for university life (Ainley, 1994; Crozier et al., 2008; The Paired Peers Project, 2013; Jack, 2019) and are expected to be doing paid work when they get there (Reay et al., 2009a, The Paired Peers Project, 2013), compared with their middle-class equivalents. Research further suggests that working-class, mature students tend to have family or care commitments (Chapman et al., 2007; Reay et al., 2009a; Williams and Kane, 2010) and experience a sense of 'standing out' (Reay et al., 2009a) on their degree course.

The issue of 'belonging' was also explored by Read et al. (2003), although unlike Reay et al. (2009a) and Crozier et al. (2008), this research uses a Foucauldian framework. Using a longitudinal, case study research design (incorporating focus groups), Read et al. (2003) found that the culture of universities can hamper a full sense of belonging for non-traditional students who tend to be disadvantaged or 'Othered' while at university. The culture of a university is more unfamiliar to non-traditional students because their family or friends are less likely to have studied in HE. Additionally, certain academic discourses such as 'independent learner' prevalent within university culture are constructed in ways that privilege the young, male, white, middle-class student (who is unlikely to be burdened by financial limitations and family responsibilities) and that limit the non-traditional student (who is typically balancing study with paid work and/or caring commitments). The authors, nevertheless, also found that some students used certain counter-strategies to challenge the dominant discourses widespread within university culture to increase a sense of belonging. As noted earlier, they discovered that some non-traditional students saw themselves via a '*discourse of resistance*' (ibid., p.273) as students with consumer rights, which challenged the unequal power relations between the student and the academy.

The studies by Ainley (1994), Read et al. (2003), Crozier et al. (2008), Reay et al. (2009a), Lehmann (2012a) and The Paired Peers Project (2013) are related to 'the student experience' of working class, mature students (at public sector universities) and all are theoretically robust. Despite this, they do not explore 'the student experience' of two-year fast-track degrees (at private sector providers). The shorter duration of a fast-track degree may exacerbate disadvantages for some working-class, mature students rendering an exploration of their experiences on a two-year undergraduate Law degree a worthwhile focus. It also highlights a key gap in knowledge, which this study seeks to address. Consequently, the 'intensive' nature of a fast-track undergraduate degree is something discussed later in this chapter and again in chapter six.

Related to this is the fact that HE in England has, to some extent, been privatised in recent years (Ball, 2007; Thornton, 2012; Barnard, 2013). Hence, I now turn to consider the appearance of a fragmentation on the HE landscape and to outline some of the relevant debates surrounding the privatisation of HE in this country.

A privatising imperative

By means of a '*privatising imperative*' (Thornton, 2012, p.12), the last decade has witnessed private HE providers becoming more noticeable in the English higher education (HE) landscape (Hughes, Porter, Jones and Sheen, 2013). This increased visibility was driven by Government policy that fostered the marketisation of HE (Tomlinson, 2005; Lynch, 2006; Thornton, 2012; Brown and Carasso, 2013; McGettigan, 2013; John and Fanghanel, 2016; Tomlinson, 2016) i.e. national policies aimed at offering students more provider 'choice' and injecting more competition into the HE market (Tomlinson, 2005; Brown and Carasso, 2013) in order to '*drive up [...] standards*' (BIS, 2016, p.9). Arguably, the marketisation of HE can be linked to the rise of neo-liberalism (Carey, 2013; Longden and Belanger, 2013), and some of the hallmarks of neo-liberalism are that things and people are made consistently subject to market forces (i.e. competition, choice), individualism and accountability via an audit culture (Giroux, 2013). Understood from within a politico-economic paradigm though, neo-liberalism ignores structural explanations for the social inequalities that result from a privatised market (Perry and Francis, 2010). Instead, it tends to blame individuals for a failure to flourish (Giroux, 2013).

Becoming more visible in England, private HE providers nonetheless have also been encouraged by the Government to fill the gap left by financial cuts to HE (Thornton, 2012). The cuts arose because of the increased cost to the public purse of widening participation

to HE (Fielden, Middlehurst, Woodfield and Oldcott, 2010; Thornton, 2012) with the express aim of recruiting 50 per cent of 18-30 years olds into HE by 2010 (DfES, 2003; Leathwood and O'Connell, 2003; Thomas and Quinn, 2007) and as a result a greater proportion of non-traditional students including working-class, mature students. England is not alone in its move towards a greater reliance on private HE providers, it is recognised as a global trend (Ball, 2007; Fielden et al., 2010; Thornton, 2012; Barnard, 2013).

In 2012, there were approximately 700 private HE providers in the UK teaching approximately 160,000 students at degree level (Hughes et al., 2013). Given that the Government intends to continue to expand the private HE sector further (McGettigan, 2013; BIS, 2016), these numbers are likely to increase in the future (Marshall, 2010). Compared with public sector universities in the UK, private HE providers are still relatively new (on average 12 years old [Hughes et al., 2013]) and geographically, most private providers are located in the South-East of England (ibid.). The two main categories of private providers in the UK are 'for profit' and 'not for profit' institutions (Barnard, 2013; McGettigan, 2013). Just over half of the private providers of higher education in the UK are 'for-profit' organisations (Hughes et al., 2013) although this categorisation is becoming less significant as most HE (public sector) providers are now run along business lines (Ball, 2007) and seek to produce financial surpluses at the end of the academic year (Fielden et al., 2010). The distinction is also becoming more blurred as some private HE providers set up groups of companies where the parent company and its subsidiaries often have different (i.e. profit and non-profit making) goals (McGettigan, 2013).

Consistent with the Langham Institute's course provision, most 'for profit' private providers offer vocational degrees e.g. Law, business, management and IT (Hughes et al., 2013). Very few offer non-vocational degree subjects (e.g. Sociology, Philosophy), although there are some exceptions in England e.g. Buckingham University and the New College of the Humanities (McGettigan, 2013). Regardless of the provider's aim and subject specialism, the vast majority of private providers do not have their own degree-awarding powers (Hughes et al., 2013), although this is certain to change in the future given that recent Government policy encourages more private providers to obtain their own awarding powers (BIS, 2016). Currently, therefore, many private providers use public-sector (partner) universities to not only validate their degrees (Fielden et al., 2010) but also to bolster their reputation by being associated with a public-sector university. Ironically, and unlike the private secondary education sector (Tomlinson, 2005), private HE providers have tended to be tainted by a reputation of being less rigorous compared

with public-sector universities. Consequently, public-sector universities in the UK have enjoyed a better reputation overall (Stevens, 2004), although some of the elite and Russell Group universities have gained a bad reputation for teaching (ibid.) for example, the results of the Teaching Excellence Framework (TEF) in June 2017 revealed London School of Economics and Goldsmiths to be awarded the lowest grade for teaching quality (Buckley-Irvine, 2017). Interestingly, this prevailing construction of universities in the UK offers a counter-discourse to the narrative that everything 'private' is good and everything relating to the public sector is bad (Ball, 2007). And so, it will be interesting to see if the Government's introduction of the TEF for all universities (BIS, 2016) will improve teaching quality (Holmwood et al., 2016) or will simply constitute an increase in '*the terrors of performativity*' (Ball, 2003, p.216), thereby shaping university teaching staff further into neo-liberal subjects (ibid.; Webb, 2015). Commenting on the rise of the private sector and how that shapes social relations, Ball (2007, p.186-87) notes:

Privatisation is not simply a technical change in the management of the delivery of educational services – it involves changes in the meaning and experience of education, what it means to be a teacher and a learner. It changes who we are and our relation to what we do, entering into all aspects of our everyday practices and thinking – into the ways that we think about ourselves and our relations to others, even our most intimate social relations.

Unlike public sector universities, the private HE providers in the UK are, currently, not heavily or consistently regulated (Fielden et al., 2010; McGettigan, 2013; Brown and Carasso, 2013), although this has now changed with the onset of the Government's plan for a '*risk-based approach to regulation*' for all HE providers (BIS, 2016, p.9). The intention is that this will reduce the 'regulatory burden' for all HEIs, apart from those HEIs '*where additional monitoring is needed*' (ibid., p.18).

It seems that students are attracted to UK private providers of HE for a number of reasons including low tuition fees (McCaig et al., 2007; Hughes et al., 2013; Barnard, 2013). The fees are often lower compared with the £9,250 per year charged by most public-sector universities (McGettigan, 2013; Barnard, 2013) and some private providers deliver 'fast-track' degrees – which increases the financial saving even more (Barnard, 2013). However, the potential saving may become less significant because the Higher Education and Research Act, 2017 has implemented the proposal that HEIs that deliver fast-track degrees can charge students £11,100 i.e. more than the maximum cap (currently at £9,250) per year (DfE, 2019a). The legislation has been implemented in order to make

the provision of fast-track degrees more attractive for HEIs to deliver (Boyd, 2017).

When attending private HE providers in the UK, most students study for their degrees on a full-time basis (Hughes et al., 2013). Interestingly, the vast majority of Law students in private provision study on a full-time basis (ibid.). In terms of the demographic profile of students at private providers, most (i.e. about 65 per cent) are mature students and many of them are in paid employment whilst studying. In relation to ethnicity, just under half identify themselves as being 'non-white' while the remaining 55 per cent describe themselves as 'white'. Approximately half are 'home' students while the second largest (approximately 40 per cent) student-type is 'international' and approximately 10 per cent originate from the EU (Hughes et al., 2013).

Regarding student satisfaction, Government-funded research shows that students who attend private HE providers in the UK are often 'satisfied' with their student experience in terms of the degree subject itself, the provider's validating institution, and institutional support facilities e.g. the library and IT facilities (Hughes et al., 2013). This should be treated with caution though, as using satisfaction to gauge 'the student experience' (as outlined earlier in this chapter) is riddled with tensions and inconsistencies (Davies et al., 2009; Williams and Kane, 2010; HEFCE, 2011; Gibbs and Dean, 2014). Nevertheless, whilst 'the student experience' at a private HE provider is likely to be very different; it is not necessarily better or worse than that experienced at most public sector universities in the UK (Fielden et al., 2010).

As specified previously, another distinctive feature of private HE providers in the UK is that a noticeable proportion (approximately a quarter) of providers deliver undergraduate degrees on a 'fast-track' i.e. two-year basis (Hughes et al., 2013). I now, therefore, turn to consider issues in relation to fast-track degrees, including the gaps in knowledge which appear to exist in the research literature.

Fast-track degrees

Most of the research literature (from the USA and the UK) on fast-track degrees indicates that they are organised at undergraduate level via a process of '*trimesterisation*' (McCaig et al., 2007, p. 9; Boast and Richardson, 2018) – i.e. compressing a standard three-year degree into two years. This is typically achieved by institutions teaching the degree across three semesters (rather than the usual two) and the third semester is often taught during the traditional summer holiday period (Huxley et al., 2017). There has been some concern, though, as to whether two-year undergraduate degrees in the UK could ever

comply with the Bologna Declaration (McCaig et al., 2007; Boyd, 2017), particularly given that many undergraduate degrees in mainland Europe (e.g. in Italy) last five years. The declaration aims to harmonise higher education qualifications within the EU in order to allow EU students to study easily anywhere within the EU – ultimately to make the EU competitive in a global economy (European Commission, 2019). The general consensus within the English academy has tended to be that a two-year undergraduate degree does not violate the fundamental principles underpinning the Bologna agreement (McCaig et al., 2007). This is because two-year degrees, just like three-year degrees, are organised around learning outcomes and a national credit transfer system (ibid.; Boast and Richardson, 2018).

The consensus may explain why two-year degrees have been taken seriously by parts of the academy and used as a legitimate way for some students to obtain an undergraduate degree. For example, the University of Buckingham (an independent university established under royal charter) has taught two-year degrees since it began in the early 1970s (Boyd, 2017). Moreover, in the mid-1990s, HEFCE funded 'the Flowers experiment' to pilot the extension of the academic year into the traditional summer holidays (Fallows and Symon, 1999). The research took place at the University of Luton between 1996 and 1998. The conclusion from the pilot was that even though many part-time students welcomed the extended year, academic staff generally disliked and resisted it for several reasons including increased workloads. As a result, the university did not pursue the idea any further.

Most of the research literature (from the USA and the UK) on fast-track degrees also suggests that the majority of fast-track students are mature (Wlodkowski, 2003; McCaig et al., 2007; Outram, 2009; Davies, Slack and Howard, 2012; Huxley et al., 2017; DfE, 2019b). However, very little research explores the social class background of students who study on fast-track degrees, with Davies et al. (2012) being a notable exception. The authors examined how fast-track (including Law) students compared with standard-track students and found that they were more likely to be working-class and/or mature. This principally positivist research employed a crude measure of social class in terms of parents' background (i.e. parental occupation and education) and therefore access to more nuanced qualitative conceptualisations were not available. The limited amount of qualitative research exploring the social class background of fast-track students highlights a key gap in knowledge which this study seeks to address. This coupled with my concern that the HE system often reflects the class (and other) inequalities in operation within society (see Reay et al., 2005; Martin, 2012; Reay, 2016; Burke et al.,

2017) has influenced the construction of the overarching research question, specified in chapter four.

Fast-track degrees in Business, management or nursing tend to be well addressed in the research literature (Scott, 2003; Wlodkowski, 2003; Miklancie and Davis, 2005; McCaig et al., 2007; Outram, 2009; Huxley et al., 2017). Only two related studies (Davies et al., 2009; Davies et al., 2012) from the UK incorporate Law students on a fast-track undergraduate degree. Davies et al. (2009) found that Law students frequently chose a fast-track degree over a traditional three-year degree for financial reasons, although McCaig et al. (2007) discovered additional reasons in relation to efficiency, being able to enter the workplace sooner, and the potentially positive perception (held by employers) of the 'intensive' nature of the degree. The current study contributes to knowledge in this area by addressing how Law students on a fast-track degree draw upon, resist and negotiate discourses of intensity, consumerism, investment partnership and employability.

It tends to be predominantly private HEIs that deliver two-year undergraduate qualifying Law degrees (QLDs) (Huxley et al., 2017), with only a few new universities also delivering them (UCAS, 2017). It is noticeable, though, that no research-intensive university delivers two-year undergraduate QLDs (ibid.); the closest is the delivery of a postgraduate QLD; - a two-year Law degree for (non-Law) graduates only. It is evident that the research-intensive universities have a tendency to label them 'senior status' Law degrees. Given that middle-class, white students tend to study at research-intensive universities (Reay et al., 2005), the latter universities are commonly understood as 'better' and have a higher status as a result (Leathwood, 2004). The higher standing of an elite university though, has more to do with the privileged students that attend (Reay et al., 2005) than factors such as curriculum content or delivery.

It is also evident that very few studies of fast-track degrees are theoretically informed. One paper by Brookfield (2003), provides an exception to this, although his work is solely a theoretical paper and not based on empirical research. Brookfield's work (2003) draws upon Marcuse's (1964) concept of 'rebellious subjectivity' in negating criticism that fast-track degrees suffer from a '*lack of intellectual rigour*' (Brookfield, op. cit., p.74). In relation to this criticism, the author maintains that fast-track degrees should be acknowledged as producing students capable of independent critical (or rigorous) thought via a sense of rebellious subjectivity. For Brookfield, the reduced contact time (characteristic of some

fast-track degrees) encourages the cultivation of a rebellious subjectivity because more time is spent studying independently than as part of a group of learners.

Empirical research with a robust theoretical framework appears to be missing from the literature on fast-track degrees. It is this gap that has influenced the construction of the second research objective, identified in chapter four (page 60). The benefit of applying a Foucauldian theoretical lens to already researched social phenomena enables a contribution to existing debates in new ways. By offering an alternative reading of taken for granted assumptions pervading this area of higher education, existing knowledge and claims to 'truth' can be unsettled so that *'new ways of knowing become possible'* (Osgood, 2012, p.2). This is particularly significant in relation to the classed, aged, gendered and 'raced' experiences of fast-track Law students.

The 'intensity' of two-year degrees?

The literature on fast-track modes of study tends to be uncritically framed by the prevailing discourse about the 'intensive' nature of two-year degrees. A deeper immersion in the literature though reveals some dissensus and so it becomes possible to begin to trace the emergence of a counter-discourse.

Most of the research literature on fast-track (two-year) undergraduate degrees construct them as an 'intensive' mode of study (ACLEC, 1996; Brookfield, 2003; Kasworm, 2003; Scott, 2003; Wlodkowski 2003; Singh and Martin, 2004; Miklancie and Davis, 2005; Serdyukov, 2008; Outram, 2009; HEFCE, 2011; DfE, 2019b). This is perhaps because fast-track degrees (as noted earlier) are often taught across three semesters per year rather than the standard format, which is two semesters per year (McCaig et al., 2007, Davies et al., 2009; Tatum, 2010; Huxley et al., 2017). If it is intensive, it seems that this is for all involved, i.e. students, tutors and also managers (Best, Exall and Sumpter, 2011) and highly demanding of students' time (Tatum, 2010). However, despite this, some students appear to prefer the 'intensive' pace (Best et al., 2011) to any extended schedule, even though fast-track degrees can be stressful for students (Huxley et al., 2017). The fact that some students appear to prefer this pace of study may therefore explain why, in recent years, 'intensive' modes of learning have increased in frequency in UK Law schools (Thornton, 2012). They have also become more popular internationally, including in the USA (Singh and Martin, 2004; Serdyukov, 2008) to the extent that an 'intensive' mode of study, for undergraduate degrees, is expected to be more widespread in the future (Widdowson, 2012; Huxley et al., 2017).

Notwithstanding their apparent popularity with students, there seems to be a certain degree of resistance to delivering 'intensive' fast-track degrees. This is from both university staff, owing to their increased workloads (Fallows and Symon, 1999; Huxley et al., 2017) and reduced opportunity to take annual leave and undertake scholarly activity (Best et al., 2011; Boast and Richardson, 2018), and from most public-sector universities. Resistance from public sector universities is caused by the financial mechanism that universities are bound by; they can only charge up to the annual cap for fees (Huxley et al., 2017), rather than on a per credit basis (Stockwell, 2012). This position has, nonetheless, changed recently as a result of the Higher Education and Research Act (HERA, 2017). The Act has proposed that public sector universities can charge (from September 2019) a tuition fee uplift (up to £11,100 per year) for accelerated modes of study (Boyd, 2017; DfE, 2019a).

'Intensive' degrees are constructed in a way that suggests they are beneficial to students, as they constitute effective alternatives to traditional learning formats (Scott, 2003; Huxley et al., 2017). They can also potentially offer students various financial gains, including reduced maintenance costs, entering the graduate workplace one year earlier (Huxley et al., 2017; Boast and Richardson, 2018) and repaying loans sooner (Stockwell, 2012). Additionally, student support and employability skills feature highly on 'intensive' degrees, which arguably contribute to 'the student experience' (Best et al., 2011). However, an employability discourse obliging universities to support non-traditional students, can be problematized (Leathwood and Hey, 2009). The problem with 'employability' and 'support' discourses is that they imply a non-traditional student is inherently deficient and ignore wider structural inequalities (e.g. within HE and the workplace) that exist within society (ibid.).

Conversely, 'intensive' fast-track degrees are also constructed negatively as they are often criticised for cultivating individualistic 'quick fix' mind-sets in students' thinking. Making this observation, Brookfield (2003, p.76) writes: *'[...] a common criticism [...] is that its intensive pace fosters the individual determination to complete a course of study as quickly as possible without regard to the learning group's welfare.'* This construction, in turn, may also explain why some commentators (e.g. Thornton, 2012) question whether Law students have sufficient time to reflect on what they have learnt in order for deep (rather than superficial) learning to take place. But Thornton's observation homogenises Law students and ignores the fact that developing reflexivity is also built into 'intensive' fast-track courses (Miklancie and Davis, 2005). The accusation of quick fix, superficial learning can be aligned to a broader criticism of 'intensive' degrees in that

they are often constructed as lacking rigour (Brookfield, 2003). Nevertheless, a potential solution in reaching 'the correct' standard could be to teach fast-track students alongside standard-track students (Stockwell, 2012). Some fast-track undergraduate students may also find that the 'intensity' of a two-year degree is challenging if faced with subject-specific or pastoral problems (Best et al., 2011). Problems of any kind may lead to missed or failed assessments, the consequences of which can be dramatic for both fast-track students and staff alike (Outram, 2009). The literature also highlights that there are very few claims that fast-track (two-year) undergraduate degrees are 'non-intensive' or no more 'intensive' than standard three-year degrees. Stockwell (2012), and Boast and Richardson (2018), though, present exceptions to this. Stockwell (2012) asserts that two-year degrees are not intense at all and questions whether a fast-track degree is any more intense than a standard three-year degree. For Stockwell, retaining the traditional summer holiday is what would make a fast-track degree intensive as extra modules would be taught alongside others in a two-semester per year format.

In this wider context this study attempts to tap into this contested area. In chapter six, I propose that 'intensity' is a social construct. In particular, it deals with the extent to which Law students (and tutors) construct the two-year Law degree via discourses of intensity and finds that the discourses have power to multiply disadvantage for students in this study. As indicated above, given that many students of 'intensive' fast-track degrees study Law, I now turn to outline the nature of studying for an undergraduate Law degree in England and Wales.

Studying undergraduate Law

Most undergraduate Law degrees in England and Wales can be categorised as QLDs. The requirement for a student to obtain a QLD is to pass seven 'foundations' of legal knowledge: Tort, Contract Law, Criminal Law, Public Law, Equity and Trusts, Land Law and EU Law (ACLEC, 1996; Solicitors Regulation Authority/Bar Standards Board, 2014). Most HE providers consider teaching towards a QLD important because it constitutes the academic stage of training and allows a Law student to progress onto the 'vocational' stage of legal training (i.e. the LPC/BPTC⁶) and ultimately enter the legal profession as a trainee solicitor or trainee barrister.

Using the standard academic year as a template, most HEIs teach their QLDs over three

⁶ The vocational stage represents the Legal Practice Course (LPC) for solicitors or the Bar Professional Training Course (BPTC) for barristers. Although, at the time of writing the BPTC is to change its name to the Bar Practice Course.

years, which remains the case despite a recommendation by ACLEC (1996) that Law degrees should be taught over four years. The report claimed that the Law had become more complex; therefore, Law students should have additional time to reflect on their studies, grapple with the complexity and mature intellectually (ACLEC, 1996). Law schools in England, though, never adopted the recommendation, perhaps because the report itself acknowledged that four-year degrees might be more difficult to fund through the public purse (*ibid.*). A three-year undergraduate (Law) degree is also compliant with the Bologna Declaration 1999 (McCaig et al., 2007) however, given the UK's decision in May 2016 to exit the EU during 2020-21 it is probable that 'Bologna reasoning' in relation to the duration of undergraduate degrees in England, will become less significant (Boyd, 2017).

A review of legal education (Legal Education and Training Review [LETR], 2013) confirmed that the current curriculum of QLDs (including the seven foundations of legal knowledge set as a minimum for a QLD to be achieved) was fit for purpose. The review, nonetheless, conceded that more emphasis should be placed on the subject areas of ethics, commercial and social awareness (Sommerlad et al., 2015). Beyond the seven foundations of legal knowledge what is taught on a QLD varies from one Law school to another, leading to a diverse legal curriculum (LETR, 2013). The variation is likely to be dictated by multiple influences including the duration of the QLD, the Law school's view on the purpose of the degree, and where the HEI and/or Law school is positioned within the hierarchy of universities/Law schools.

Diversity in the undergraduate Law curriculum has led to an inevitable assortment of undergraduate Law assessments (LETR, 2013). The diversity, in turn, has prompted a related set of proposals (and debates) about the educational standards achieved by Law students in England and Wales (Sommerlad et al., 2015). The Solicitors Regulation Authority (SRA) has proposed to implement (from 2021) the centralisation and standardisation of assessments for Law degrees for those students wishing to enter the solicitors' branch of the legal profession (Best, 2017). Concurrently, the SRA is concerned that the solicitors' branch of the legal profession is not particularly diverse, to increase social inclusiveness it plans to introduce flexible routes into this branch, including making the formal learning (i.e. at any HEI provider) of a QLD optional for Law students. While the SRA's proposed diversification of the solicitors' branch of the legal profession is to be commended, it seems to be at odds with its other related proposal i.e. the standardisation of assessments for those wanting to qualify as a solicitor. I maintain that the non-diverse assessment regime (via standardised assessments) will amount to a discursive practice

that subverts the policy goal of diversity within the solicitors' branch of legal profession. One would expect a genuinely diverse solicitors' branch to be matched by diverse (i.e. non-standardised) assessments of the undergraduate Law curriculum.

The Bar Standards Board (BSB) has recently changed training for barristers to create more pathways to the vocational stage by offering a variety of more affordable, flexible options while also 'maintaining standards' (Bar Standards Board, 2020). Similar to the SRA, it has implemented a new assessment regime whereby Law students undergo a mixture of centrally-set exams and also provider-set assessments. But it is noticeable that the rationale for creating flexible cheaper options is tainted with an institutional neoliberal subjectivity (Thornton, 2012; Webb, 2015). In particular, offering more educational choice is problematic and rings hollow since it assumes HE is not mediated by students' intersectionalities (Sabri, 2011) and that the barristers' branch of the legal profession is an equitable site of power. What is known, however, is that the Bar is even more elitist than the solicitors' branch (Milburn, 2012b). Accordingly these developments, while well-intentioned, are unlikely to make any significant changes to the future composition of the Bar.

One feature of the undergraduate Law curriculum is that it has become increasingly vocationalised (Thornton, 2012). In view of that, I now turn to a debate about the vocational/academic divide within the English (higher) education system.

Dividing the vocational from the academic

The vocational/academic divide within the English education system has a long history (Stevens, 2004; Brant and Cullimore, 2012) and can be seen playing out in the Education Act 1944. The Education Act created an educational system for secondary schools based on tripartitism (Leathwood, 2004; Tomlinson, 2005), where 'academic' students were taught at grammar schools and the more vocationally-orientated students were taught at either secondary modern or technical schools. The divide has long been considered problematic in that it exacerbates social inequalities by reinforcing class divisions, which are further compounded by 'race' and gender. Francis (2006) is amongst many commentators to note that middle-class students are grossly over-represented in grammar schools whilst working-class students are funnelled into more vocationally-orientated schools.

Filtering students into academic or vocational pathways (re)produces the privileges of the middle classes (Milburn, 2012a). Middle-class students obtain *'intrinsic and positional benefits'* (Leathwood, 2004, p.33) as grammar schools tend to be better resourced and have smaller class sizes. Moreover, through selective practices the 'best' students are 'creamed off' to ensure that they leave the school with top grades and are better placed for an elite university (ibid.) and their working lives beyond (Francis, 2006). In the early 1990s, Labour's educational policy was critical of the vocational/academic divide (as it had been in the 1960s with its policies on Comprehensive schools), and promoted a Baccalaureate-type qualification for all pupils which would ensure a blend of vocational and academic provision (Tomlinson, 2005). However, on coming to power in 1997, Labour reneged on this vision. Arguably, the divide has been further exacerbated by government-driven policy discourse which promotes educational 'choice' and assures quality of outcome through performance, as evidenced in competitive league tables (ibid.). These discourses of choice, performance and competition are also evident at both FE and HE level. The 'choice' of academic subject is very gendered. Osgood, Francis and Archer (2006) and later Thornton (2012) identify that many students 'choose' subjects deemed gender appropriate. For example, male students tend to choose subjects like business (or for male Law students - commercial Law) and female students choose subjects, which have a caring and creative element (e.g. female Law students tend to opt for matrimonial Law). Francis (2006, p.57) maintains that the *'[...] gendered (and 'raced' and classed) discourses of selfhood and appropriate behaviour carry women (and men) down particular routes, reproducing gendered inequalities [...] in their future lives.'* Francis (2006) concludes that the gendered demarcation has a major impact on people's future working lives and contributes (among other things) to the inequalities surrounding the gender pay gap.

Although arguably more nuanced, HE is also divided along academic and vocational lines. The division leads to differing values being attached to HE qualifications, with more value attached to 'academic' degree subjects (Archer, Hutchings and Ross, 2003). Perhaps this is because most academic routes (e.g. Philosophy, Sociology) are studied by 'traditional' students (Leathwood, 2004; Tomlinson, 2005) and often at elite universities (Crozier, et al., 2008; Reay, Crozier and Clayton, 2009b) whereas most vocational pathways (e.g. business, management) are studied by 'non-traditional' students (i.e. working-class, older and those from Black and minority ethnic groups) and often at new universities (Lehmann, 2009). While some commentators (e.g. Archer et al., 2003) maintain that the divide serves to uphold the interests of those positioned with power, allowing them to access the workplace more easily, others argue that it serves to

enable those with less power to access HE more easily (Lehmann, 2009). Working-class students tend to conceive of university as 'risky' (Archer and Hutchins, 2000; Clayton, Crozier and Reay, 2009; Devas, 2011), but also as an investment in their future lives. By regarding university as a form of '*vocational-instrumental*' education working-class students are assisted to progress into HE more easily (Lehmann, 2009, p.147). This is even more pronounced for subjects like Law because it has recognised occupations upon completion of the degree. For Lehmann (2009, p.144), studying for a Law degree gives working-class students hope that they could get a job in a Law firm and '*University thus becomes a form of vocational education for working-class students*'.

Regardless of whether the divide reinforces social inequities or provides an instrumental route into HE for some working-class students it also leads to an almost inescapable difference in 'the student experience' for students on vocational degrees. There is a vast difference in university curriculum for a student pursuing a vocational degree compared to an academic subject (Sabri, 2011). This, therefore, problematizes the 'student experience' discourse because both the 'student' and 'experience' infers a homogenous student body with broadly similar experiences. For Sabri (2011), 'the student experience' promotes the idea that a university experience is universal, ignoring diversity of curriculum offered and diversity in all other areas of university life.

Following Sabri (2011), it is important to recognise that a Law student's experience will be very different from, for example, that of a Sociology student. As noted above, Law as a discipline, for some scholars (e.g. Thornton, 2012; Krook, 2017), has become more vocational over time and less theoretical in many common Law countries (e.g. UK, Australia, Canada and New Zealand). For Thornton (2012), contemporary experiences of studying Law focus on the needs of the market, end user and regulators (rather than studying Law for its own sake), which has 'vocationally' it as a subject discipline. For example, she cites the subject area of jurisprudence, which for her has become peripheralized in favour of doctrinal Law (i.e. legal rules applied to the facts of a case) as evidence of the vocationalising process. However, not all Law scholars share Thornton's view; one view held about the nature of undergraduate Law degrees in England and Wales is that they are predominately academic (i.e. theoretical) in orientation with little vocational content in terms of legal DRAIN⁷ skills (Cownie, 2010). It seems therefore, that the difference between Thornton and Cownie's conclusions about Law degrees are based on specific conceptualisations of 'vocational', which ultimately can be understood

⁷ Drafting, Research, Advocacy, Interviewing, Negotiation

as both highly contestable and politicised. Interestingly, Law is distinguished from many other vocational subjects (e.g. business and management studies) by its historical and symbolic association to one of the oldest 'learned professions' which continues to be predominately white, male and middle-class (Ashley, 2010; Sommerlad et al., 2010; Ashley, Duberley, Sommerlad and Scholarios, 2015). This alignment complicates the discourses surrounding Law as a fundamentally vocational subject. It is, consequently, less certain as to which side of the vocational-academic divide Law resides. Nonetheless, what is certain is that the academic/vocational divide within HE is aligned to the stratified nature of English universities, which I now turn to discuss.

The stratification of universities

A characteristic of the university system in the UK is its extreme hierarchy (Archer and Hutchings, 2000; Leathwood and O'Connell, 2003; Read et al., 2003; Ainley and Canaan, 2005; Mavelli, 2014; Raffe and Croxford, 2015). Research-focused universities are positioned at the top, teaching universities in the middle, and training-focused universities at the bottom of the hierarchy (Ainley, 2008). I contend that private HEIs are also located at the bottom. This institutional diversity reflects the stratified nature of society in terms of social class (Leathwood, 2004; Reay et al., 2005; Raffe and Croxford, 2015) and other social identities (e.g. age, gender and 'race') also. To some extent governments, and the academy itself, attempt to normalise the hierarchy by drawing upon a discourse of meritocracy (Young, 1971 [1958]; Goldthorpe, 1997; Morley, 1997; Leathwood, 2004) and a discourse of ability (Gilbourn and Youdell, 2000) to justify its existence and the reproduction of social inequalities arising from it.

As a result of the widening participation agenda, a broader range of students has entered English universities (Leathwood, 2004; Reay et al., 2005; LETR, 2019; Lumb and Burke, 2019). Nevertheless, because the HE system is classed (aged, 'raced' and gendered), working-class students are prevented from gaining equal access to it (Reay et al., 2005; Thomas and Quinn, 2007). Hence, working-class students are disproportionately located at the bottom of the hierarchy i.e. at new universities (Reay, 2016) and, I suggest, at private HEIs. The HE hierarchy can be aligned to the stratified school system in England with private and grammar schools located at the top and non-selective state schools positioned at the bottom (Leathwood, 2004). The hierarchy mirrors the academic/vocational divide, discussed earlier, which is unsurprising given the classed nature of society and the educational system as a whole (Reay, 2016).

It is not only stratified across HE but also within subsets of HE (Crozier et al., 2008) and this may explain, therefore, why there is even '*a hierarchy of Colleges*' at Oxbridge universities (ibid., p.173) and a hierarchy of Law schools (Espeland and Sauder, 2007) within the UK. League tables and other measures of performativity (Ball, 2007) are used widely to (re)position the university/Law school within the academy. The stratified nature of a university/Law school is widely acknowledged in the academy and within public discourse. Consequently, students and employers frequently draw upon the hierarchy of university discourse (Tomlinson, 2005) but, I argue, so too do university staff and the students' wider network i.e. their friends and family.

When university tuition fees were increased in 2006 to £3,000 per year in England (Brown and Carasso, 2013), it was assumed that the increase would lead to a reinforcement of the hierarchy (Tomlinson, 2005). However, with the further increase in 2012 to £9,000 per year, the reinforcement does not seem to have materialised, as the majority of public universities in England appear now to be charging the maximum fee (£9,250 per year) for tuition. By contrast, a private HE provider's tuition fees are often set at a lower level. Accordingly, if a student studies for a two-year Law degree (and completes on time) the fee potentially can lead to a saving of at least £10,000 overall, and considerably more if the student is studying at home. Conversely, what has led to a reinforcement of the hierarchy are connected (public) discourses that circulate within (and beyond) the academy. One such discourse is that which positions a student as studying for a '*mickey mouse degree*' (Leathwood, 2004, p.39) for example in football studies (McKie, 2020) particularly if s/he attends a private HEI or a new university.

The hierarchy of university discourse (Leathwood and O'Connell, 2003) is a powerful one in that it has the ability to impact upon certain aspects of a student's university life and identity. Firstly, given that the hierarchy of university discourse is classed, 'raced' and gendered (Reay et al., 2005) the stratification impacts on the positionality of students within HE in that it constructs students as be(com)ing something other than 'a consumer'. McGettigan (2013, p.60) asserts:

Owing to historical legacies and the composition of British society, higher education is a positional good in so far as there is a hierarchy of institutions and the value of a university place depends on its selectivity and relative scarcity (that is, it is not a consumer good in so far as it is not available to anyone who wishes to purchase it).

Secondly, the hierarchy impacts on social justice issues in that 'the top' universities become increasingly closed off to non-traditional students (Archer and Hutchings, 2000; Reay et al., 2009b; Martin, 2012). This is the case despite some elite universities (e.g. Bristol university) lowering their entry requirements to encourage disadvantaged students to study there (Kentish, 2017) and/or universities creating foundation year programmes as preparation for the main degree. Nonetheless, these well-intentioned policies, arguably, disadvantage non-traditional students further because it reinforces a deficit discourse surrounding non-traditional students studying within HE (Leathwood and O'Connell, 2003; Thomas and Quinn, 2007; Thornton, 2012; Moreau and Kerner, 2013; Burke et al., 2017).

As observed above, Law schools are stratified too (Espeland and Sauder, 2007; Thornton, 2012; Thornton, 2014; Krook, 2017). A Law school's positionality tends to mirror how its university is ranked within the university hierarchy, although some Law schools in England buck that trend. For example, Westminster University's Law school is ranked 57th whereas the university overall is ranked 82nd (The Complete University Guide, 2019). Unsurprisingly, university Law schools in England are also classed, in that middle-class students tend to study at research-focused Law schools e.g. Warwick Law School (Sherr and Webb, 1989; Thornton, 2012). The classed (and perhaps aged and 'raced') nature of Law schools mirrors the legal profession as a whole, which is also stratified, classed and closed (Francis and Sommerlad, 2009; Sommerlad et al., 2010; Tomlinson, Muzio, Sommerlad, Webley and Duff, 2013). Arguably, the classed nature of HE and Law schools is '*the white elephant in the room*', which idiomatically is '*an obvious truth that is being ignored and consequently going unaddressed*' (Reay, 2016, p. 1).

Conclusion

In summary, this chapter documents what is known and not known about the specific research area in which this study is located. It has engaged critically with what is known and therefore sought to highlight research gaps and so provide a justification for this specific investigation. This chapter has revealed that no other research has been conducted that is exactly the same although some studies are related. Existing research reveals that working class, mature students (at public sector universities) experience standard-track degrees in a way that often disadvantages them (Ainley, 1994; Read et al., 2003; Crozier et al., 2008; Reay et al., 2009a; The Paired Peers Project, 2013; Burke et al., 2017). Yet very little is known about non-traditional students' experiences of a fast-

track degree at a private HEI; and even less is known about experiences of a two-year undergraduate *Law* degree.

This chapter has argued that 'the student experience' is a social construct and has therefore been variously conceptualised. By drawing upon and extending existing discussions generated by research it has been possible to identify the discourses that non-traditional students are likely to draw upon or resist to construct experiences of two-year undergraduate Law degrees, taught at private Law schools. For example, students are found to draw upon specific discourses (e.g. of independent learner) to make sense of the ways in which they experience a degree (Read et al., 2003); such discourses have positioning power embedded within them (ibid.). This study is attuned to such ideas presented in existing research and is therefore well-placed to attend to the ways in which fast-track, vocational degrees can exacerbate disadvantage for some working-class, mature students. This research context charted in this chapter is drawn upon to frame the analyses of data which is theorised and presented in chapters five to seven. The research and policy context, specifically related to employability issues, to emerge throughout this study is addressed in chapter eight.

Chapter 3: The theoretical and conceptual framework

Introduction

In the previous chapter I located this study within the broader research field. Following on this chapter seeks to locate the study within Michel Foucault's philosophical tradition. I draw on the work of Foucault to make an argument that social reality (e.g. 'the student experience') is constructed via discourse. Foucault's emphasis on power/knowledge is especially useful to my analysis as it allows consideration of the ways that discourses have the capacity to produce subjects of power and objects of knowledge. To this end, Foucault's conceptualisations of discourse, resistance and counter-discourse are generative for grasping how students are able to draw upon, resist and negotiate discourses connected with their student experience. It is here that Foucault's attention to discursive positioning is of value for informing an understanding of student subjectivities.

This chapter therefore outlines the Foucauldian theoretical and conceptual framework deployed in this study, while also highlighting its ontological and epistemological assumptions. In doing this certain Foucauldian concepts are identified: *discourse*, *power/knowledge*, *resistance*, *counter-discourse*, and *positioning*, all of which shape the research questions. Locating the study within Foucault's philosophy inevitably raises implications for this study, which are outlined towards the end of this chapter. It also provides a justification for the chosen research methods (outlined in chapter four) and helps make sense of the data analysed in chapters five to eight

The theoretical and conceptual framework

Foucault's philosophy can be situated within a wider paradigm of social constructionism. Even though there are a variety of social constructionist models the one that informs this study is that conceived by Berger and Luckman, who maintain that reality is constructed socially rather than there being some objective reality waiting to be discovered (Berger and Luckman, 1991 [1966]). Within this paradigm all aspects of reality are understood to be socially constructed which means that an object or subject will mean different things to different people and that its construction will change over time, place and space. For many academics, reality is socially constructed via discourse (Francis, 1998; Osgood, 2012; Burr, 2015) and one of the main philosophers in discourse theory is Michel Foucault.

Constructing the social via discourse

The term discourse means different things to different people but in this study it is used in a Foucauldian sense. For Foucault, discourses are unquestioned ways of framing things which then get presented as factual knowledge. This impacts on how we speak, write, think, and act (collectively termed a '*discursive practice*': Davies and Harre, 1990, p. 262) in relation to a given issue. One can observe this when Foucault writes that discourses are taken-for-granted 'truths' that '*systematically form the objects about which they speak*' (Foucault, 1972, p.49). This is not dissimilar to what Burr (2015, p.64) contends when she writes that a discourse is:

[...] a set of meanings, metaphors, representations, images, stories, statements and so on that in some way together produce a particular version of events. It refers to a particular picture that is painted of an event, person or class of persons, a particular way of representing it in a certain light.

Drawing upon a Foucauldian framework, Ball (1990b) takes the notion of discourse further and links it to Foucault's other ideas, including that discourse dictates people's rights and shapes power relations and subjectivity. Ball (ibid., p.2) writes:

Discourses are about what can be said and thought, but also about who can speak, when, and with what authority. Discourses embody meaning and social relationships; they constitute both subjectivity and power relations.

Ontologically, Foucault (1980) asserts that discourses change over time, place and space. The significance of this is that they give rise to a multiplicity of fluid discourses existing within society (Foucault, 1978; Weedon, 1994; Jarosz, 2014). Accordingly, discourses are not simply constituted as binary opposites; they circulate in a more complex way. For Foucault (1978), the world is much more nuanced than seeing it in terms of a set of accepted/excluded discourses or dominant/dominated discourses. Instead, reality should be seen as an assemblage of 'discursive elements' that come together within various technologies. As Foucault (1978, p.100) notes:

[...] we must conceive discourse as a series of discontinuous segments whose tactical function is neither uniform nor stable. To be more precise, we must not imagine a world of discourse divided between accepted discourse and excluded discourse, or between the dominant discourse and the dominated one; but as a multiplicity of discursive elements that can come into play in various strategies.

The multiple and complex nature of discourses leads to them being also contradictory (Foucault, 1978). For example, Francis (2000) contends that discourses in relation to masculinity are recognised in the West to include certain traits, including competition, activity, and independence. By contrast, discourses in relation to femininity are assumed to include the opposite traits including cooperation, passivity and dependence. Men/boys and women/girls have varying degrees of the numerous traits and will also have some traits often discursively understood to 'belong' to the other gender. The contradictions embedded within discourses should not, however, be seen as devoid of value. They ought to be seen productively in the sense that discursive contradictions can be used to generate data for further analysis (MacLure, 2003).

Some of the ways that Foucauldian discourses can be put to work are in terms of whether they are dominant, prevailing, or '*hegemonic*' (Foucault, 1978, p.121). Conceptually, a hegemonic discourse is a notion that combines Foucault's work with that of Antonio Gramsci. Gramsci wrote about cultural hegemony, claiming that it is a contrived ruling class ideology, accepted by the majority as unquestionable and used to validate the status quo in order to mask the benefits enjoyed only by those in power (Gramsci and Lawner, 1975). Although blending discourse with hegemony potentially contains a theoretical tension (detailed later in this chapter), the notion of hegemonic discourse, I argue, is a useful idea that I will subsequently use in chapters (five to eight) to theorise data. Hegemonic discourse can therefore be understood to mean discourses that are constructed and maintained to serve the interests of certain powerful groups in society and society generally (Osgood, 2012) and to ensure those who are positioned with less power in HE (e.g. working class, mature students) will accept 'their lot' without protest (Reay, 2006).

Given the multiple nature of discourses, Foucault (1978) also argues that inevitably what arises in the social world is a variety of competing discourses, each 'constructing' objects and subjects in different ways. In Foucauldian terms, each discourse is exercising its '*will to truth*' (Nietzsche, 1998 [1886], p.6) and some are more powerful than others. Those that

are less powerful emerge and can be construed as a counter to powerful prevailing discourses. Writing on the history of sexuality, Foucault (1978) contends that a collection of discourses on homosexuality emerged in the West (between the 1600s to the mid-1900s), which had power embedded in them. People who were classed as homosexual were constructed as perverted, unnatural and 'Other'. The significance of 'Othering' is discussed later in this chapter. Because the power of a discourse to control people, encouraging individuals to be 'normal', legitimate and natural, a resistance arose against the discursive power. Inevitably, counter-discourses emerged, often appropriating the same language used in the prevailing discourse. As Foucault (1978, p.101) writes:

The appearance in nineteenth-century psychiatry, jurisprudence, and literature of a whole series of discourses on the species and subspecies of homosexuality, inversion, pederasty, and "psychic hermaphroditism" made possible a strong advance of social controls into this area of "perversity"; but it also made possible the formation of a "reverse" discourse: homosexuality began to speak in its own behalf, to demand that its legitimacy or "naturalness" be acknowledged, often in the same vocabulary, using the same categories by which it was medically disqualified.

Even though discourse appears to be similar to Althusser's (1969) notion of *ideology*, Foucault (1984) nevertheless argued that discourse and ideology could never amount to the same thing. While ideology is often recognised as an individual's world-view and belief system, Foucault upholds that ideology is different from discourse due to the ontological assumptions underpinning both concepts. For Foucault (1984), the notion of ideology assumes that 'a truth' exists to which ideology is the polar opposite. Accordingly, people's ideology can be so distorted from a 'true' reality so that their ideology becomes contra to their (class) interests. This can be to the extent that they are then recognised as possessing a false (i.e. an untrue) ideology/consciousness. By contrast, Foucault's notion of discourse assumes that, ontologically, there is no fixed truth, and that reality is fluid. The fluidity of reality can be aligned to its fragmented, complex and nuanced nature (Nixon and Givens, 2007). In view of that, ideology has no place in a Foucauldian philosophy. Distinguishing ideology from discourse in this way means that ideology needs to be employed with caution. Foucault (1984, p.60) reasons that:

The notion of ideology appears to me to be difficult to make use of [...] [L]ike it or not, it always stands in virtual opposition to something else which is supposed to count as truth [...] For these [...] reasons, I think that this is a notion that cannot be used without circumspection.

For similar reasons, I mobilise both hegemony and discourse throughout this thesis, although I recognise a theoretical tension when using them together. As highlighted above, hegemony is taken from a notion of cultural hegemony (Gramsci and Lawner, 1975) which draws upon notions of a ruling class ideology. As a neo-Marxist concept it, therefore, has different ontological assumptions underpinning it compared with the beliefs underlying Foucault's philosophy. In spite of that, I go onto to use '*hegemonic discourse*' in the same way that Foucault (1978, p.121) and many other writers including Osgood (2012), and Bennett and Burke (2018) have utilised it. Moreover, I deploy it throughout this thesis because it has the power to unmask social injustices.

The significance of discourses, for Foucault (1977), is that they are fundamental to a 'bottom up' model rather than a 'top down' one. Consequently, discourses shape social reality rather than the other way around, because discourses impact upon knowledge and power (ibid.). Ontologically, Foucault thus inverts a structuralist (i.e. 'top down') explanation of the social, which understands reality to be shaped solely by structural forces (e.g. language, the economy etc.) 'from above'. For Foucault (1978), it is also important to examine discourses used by social agents, as they not only have an impact on power relations but also on subjectivities. Moreover, '[...] *it is in discourse that power and knowledge are joined together*' (Foucault, 1978, p.100). Power and knowledge form an assemblage and 'dance' together to form a circulating partnership, although only when a discursive 'melody' is performed. The inter-related concepts of *knowledge/power* are, therefore, central to a Foucauldian analysis. There is no causal link between the two in that knowledge does not lead to power and, conversely, power does not lead to knowledge. Instead, Foucault (1977, p.27) asserts that:

[...] power and knowledge directly imply one another; that there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations.

Joining knowledge and power together

Given that Foucault (1976; 1978) joins knowledge and power together, which he terms power/knowledge, it may be difficult to detach the two for further analysis. Despite this, in what follows below, I attempt to map out knowledge and power separately, before I bring them back together again. My decision to map out the two concepts separately for analysis was informed by my understanding of their importance to Foucault, since he devotes considerable attention to each (see Foucault 1976; 1978). Temporarily detaching the two concepts for further analysis provides a clearer examination of each concept than analysing them together.

Related to 'the discursive', knowledge is contingent upon which discourse(s) is/are accepted by social actors as valid and meaningful. Foucault (1976, p.131) writes:

Each society has its regime of truth[...] that is, the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements [...] the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true.

Consequently, Foucault (1970) challenges the possibility of unveiling 'the truth' (or true knowledge). Drawing upon Nietzsche (1998 [1886]), epistemologically, Foucault's assumptions include that there is no absolute truth: the only truths that exist are partial, local and situated knowledge(s) (Walkerdine, 1990; Archer et al., 2003; Jackson and Mazzei, 2012; Osgood, 2020). Knowledge is, as a result, dependent upon time place and space (Foucault, 1972). Seeing as there is no absolute truth 'out there' waiting to be discovered, research data is incapable of being distorted. In this sense, power is removed from any positivist claim to have discovered a universal truth. At the same time, it also illustrates the almost inseparable nature of knowledge and power.

Instead, knowledge is socially and continuously (co)constructed via discourse by individuals within a social process (Burr, 2015). Within a research process, the co-construction of knowledge means that emphasis is placed on the subjective meaning of respondents' words. Thus, a respondent's knowledge is given power via the research process that draws upon Foucault's philosophy. This seeks to redress the power asymmetries between the researcher and the researched (Francis, 2000; Maylor, 2009), characteristic of most positivist research (Fawcett and Hearn, 2004). Given the co-

constructed nature of knowledge, accordingly, there is value in the deconstruction and re-construction of the partial, local and situated nature of research data.

Foucault (1972, p.183) also wrote about two forms of knowledge: '*savoir*' and '*connaissance*'. For Foucault, *savoir* is comprehended as a type of implied understanding to the extent that it can amount to common-sense knowledge. By contrast, *connaissance* is best understood as explicit knowledge, often encountered in an institutionalised (e.g. psychiatry, a university) form. It is noticeable that Thomas Kuhn (1962) was interested in similar issues, in that he contended that scientific knowledge is produced by common understandings (or shared paradigms) held by scientists. The significance of the difference between *savoir* and *connaissance*, for Foucault, is evident from his interest in how common-sense knowledge can shape explicit institutionalised forms of knowledge. His distinction is also significant in that he seems to be inverting prevailing understandings of knowledge, in that it is commonly thought that explicit scientific knowledge shapes our common-sense understanding of the world (Foucault, 1972). This can be aligned to Foucault's inverted analysis of power, charted in more detail below.

Foucault's (1978) conception of power is put forward in the *History of Sexuality*, among other works. It is evident from the title ending – '*the will to knowledge*' – alone, that Foucault intends to show how power/knowledge come together in discourse. He argues that power in relation to sexuality does not come from the state via any Laws on sexuality, as is commonly thought. Instead, power comes from the way that sexuality is framed and regulated by discourse. For Foucault (1978) power is embedded within discourses in relation to sexuality (and other areas of life) in that discourses are often presented as beneficial to individuals who abide by the rules (i.e. knowledge) established by the discourse, although this is often not the case at all. Foucault claims: '[...] *power is tolerable only on condition that it mask[s] a substantial part of itself*' (Foucault, 1978, p.86). Given that power (and knowledge) is constructed through multiple discourses, power is fluid and individuals are continuously exercising it and being subjected to it (Foucault, 1978). Ontologically, this impacts on social reality in that the world (including people's identities) is fluid, shifting and complex (Weedon, 1994; Archer et al., 2003; Lawler, 2008; Burr, 2015).

A Foucauldian notion of power is not simply 'top down' i.e. coming from a sovereign state. Power needs to be seen '*as the multiplicity of force relations immanent in the sphere in which they operate and which constitute their own organization*' (Foucault, 1978, p.92). In this sense, Foucault claims that power is omnipresent in that '*Power is everywhere*;

not because it embraces everything, but because it comes from everywhere' (Foucault 1978, p.93). It is embedded in all social relationships and should be regarded as *'a regime of its exercise within the social body, rather than from above it'* (Foucault, 1980, p.39). In addition to power being connected to knowledge it is, therefore, also relational. For Foucault, the relationality of power is that it is not a possession. He writes that power:

[...] is never localised here or there, never in anybody's hands, never appropriated as a commodity or piece of wealth. Power is employed and exercised through a net-like organisation. And not only do individuals circulate between its threads; they are always in the position of simultaneously undergoing and exercising this power. They are not only its inert or consenting target; they are always also the elements of its articulation. In other words, individuals are the vehicle of power, not its points of application (Foucault, 1980, p.98).

When analysing the way that young girls are educated in primary schools, Walkerdine (1990) draws upon the same idea. Here she writes about power not being the sole proprietorship of those in authority (e.g. a schoolteacher) but more about the multiple nature of power. It is this multiplicity that has implications for discursive positioning in that the latter flows from power (ibid.). Later in this chapter, I discuss positioning via discourse in more detail.

Besides power being relational, Foucault (1977) asserts that power is also productive. By inverting an analysis of power, Foucault (1984) holds that power is not solely repressive in the sense that it prevents us from doing things. It also needs to be comprehended in a positive light, as it also produces effects including pleasure, knowledge, and (counter)discourses. Power can bring about pleasure, and this may explain why people accept being subjected to it. For example, the spatial power that a university lecturer obtains when s/he teaches a small class could bring about pleasure for some students if it leads to a student obtaining attention in relation to his/her own questions in class. Additionally, power produces knowledge. For instance, the power a university has in making a student who has failed a degree module retake the module could be understood as producing more knowledge for the failed student. And of course, power produces discourse. For example, the power of a university lecturer's words and actions in class tends to have a significant impact on his/her students' own discursive practices. As Foucault (1984, p.61) argues:

What makes power hold good, what makes it accepted, is simply the fact that it doesn't only weigh on us as a force that says no, but that it traverses and produces things, it induces pleasure, forms knowledge, produces discourse. It needs to be considered as a productive network which runs through the whole social body, much more than as a negative instance whose function is repression.

Foucault's inverted analysis of power leads to atypical questions like: how does power work on people, through people and from people as '*vehicles of power*'? (Jackson and Mazzei, 2012, p.56). Or put another way, what are the '*productive effects of power as it circulates through the practices of people in their daily lives*'? (ibid., p.56). Answers to these questions could be illuminated, for example, if mature (older) students experience a sense of power working on them owing to their age. Despite an age difference, mature (older) students may enjoy mixing socially with younger students even though older students may be initially reluctant to do this. Being able to mix socially with younger students could be identified as power travelling through mature (older) students. Nonetheless, if they also enjoy the additional power of interacting easily with their university tutors (of a similar age), this might also produce power coming from them. Experiencing themselves as '*a vehicle of power*' arguably produces discourses in relation to age and maturity that could be understood as having assisted them in effortlessly interacting with their university tutors.

Power can be productive in another sense too: in that power can generate resistance to it. Foucault recognises that '*where there is power there is resistance*' (Foucault, 1978, p.95) so although power is '*net-like*' (Foucault, 1980, p.98) and that '*power is everywhere*' (Foucault, 1978, p.93) there is also space for individuals to resist it. Given that power is everywhere, it also means that conversely resistance can be found at multiple places in that the '*points of resistance are present everywhere in the power network*' (ibid., p.95). Resistance can be recognised in various forms including, and as noted above, students using counter-discourse strategies (Read et al., 2003). Resistance can be recognised in silence (Ryan and Bernard, 2003) even though '*power reduces one to silence*' too (Foucault, 1978, p.60). This form of agency acts to negate a criticism that a Foucauldian philosophy constructs individuals as '*a body [...] docile that can be subjected, used, transformed and improved*' (Foucault, 1977, p.136). Consequently, it is recognisable that Foucault's philosophy attempts to reconcile the tensions that exist within the structure and agency debate, by holding structure and agency together.

Of the types of power (pastoral, juridical, bio-power) Foucault (1977) wrote about, it is bio-power that, arguably, is more nuanced and omnipresent. For Foucault (1977), in the West, bio-power emerged from juridical power. Juridical power was about the physical punishment of the body by the sovereign and was used overtly to control and govern the population. However, according to Foucault, as populations grew in the West a different way for a state to control/govern its people emerged. As a nuanced type of power, bio-power encourages discipline. According to Foucault (1984), bio-power has two aspects to it. The first is power over the population at a macro level and the second is power over the individual at a micro level. At a micro level, the concept seems to cover a number of things including the governance of the person/human body. It is, therefore, recognised as a way that an individual is controlled, governed and becomes self-regulated by discipline. People become objects of knowledge and also become subjected to disciplinary power. This union leads individuals to become disciplined subjects, making them '*docile*' or easier to control and govern. Rabinow (1984, p.17) writes:

The other pole of bio power is the human body: the body approached not directly in its biological dimension, but as an object to be manipulated and controlled. A new set of operations, of procedures – those joinings of knowledge and power that Foucault calls “technologies” – come together around the objectification of the body. They form the “disciplinary technology” [...]

Foucault (1977) refers to Jeremy Bentham's Panopticon to illustrate how disciplinary power and surveillance works. Bentham's Panopticon, a proposed prison system intended to isolate individual inmates from each other and make them aware that they would be subject to constant surveillance and observation from the guards. The guards were to use one-way mirrors to observe the inmates. As a result, the inmates would always be uncertain if they were being surveyed or not. The unequal power relations between guards and inmates or '*a visual order, which clarified the mechanisms of power being used*', as Osgood (2006, p.7) puts it, would lead to self-regulation on the part of the inmates. This is because they would naturally assume that they were being constantly observed. For Foucault (1977), disciplinary power via surveillance thus constrains individuals in society via self-regulatory behaviour.

In regulating what can and cannot be done, disciplinary power requires disciplined bodies. The success of the power, for Foucault (1977), requires three imbricated

technologies: hierarchical observations, normalising judgements and the examination. The significance of hierarchical observations (in the panoptic design) is such that one 'faceless gaze' (Foucault, 1977, p.214) could see everything. Accordingly, for Foucault (1977; 1978), this is central to self-regulatory conduct. Normalising judgements are powerful assessments used about individuals in terms of how far they deviate from a standard norm. The assessment produces people who are considered to be 'normal' and 'abnormal' or 'deviant'. If someone deviates from the norm, the deviation frequently leads to his/her self-regulatory behaviour. This is in order to be (re)assessed with the prospect of being placed within the parameters of 'normality'. The examination is a formal blend of the first two technologies, as Foucault (1984, p.188) notes: '*The success of disciplinary power derives [...] from the use of simple instruments: hierarchical observation, normalizing judgement and their combination in a procedure that is specific to it, the examination*'.

Thus, when Foucault's concepts of *discourse*, *knowledge/power* come together it allows us to recognise that people are transformed into the objects of knowledge (objectification) and the subjects of power (subjectification), or to put it another way: individuals can (be) position(ed) by the power of discourse (Davies and Harre, 1990; Francis, 2000; Hollway, 2011; Osgood, 2012; Costanza, 2015).

Positioning through discourse

'Discursive positioning' is, for that reason, a key concept used within a Foucauldian philosophy. Its significance is that it contributes to the formation of subjectivities and identity formation(s) (Davies and Harre, 1990). 'Discursive positioning' is not dissimilar to Althusser's (1969) concept of 'interpellation' (Parker, 1992; MacLure, 2003; Hollway, 2011 Osgood, 2012; Burr, 2015) which Althusser saw as 'hailing' in that people come to recognise themselves by being 'called out' by the words used within a particular discourse (Burr, 2015).

As specified earlier, Foucault's conception of power is non-possessory, fluid and changing and is shaped by shifting discourses. Accordingly, it is unsurprising that Foucault (1976) maintains that when individuals are powerful it is not because they possess power over others; it is because they get positioned (and also position themselves) as powerful via discourse (Davies and Harre, 1990; Francis, 1998). Discourses, therefore, have power embedded within them because discourses have the ability to position people as either powerful or powerless (Francis, 2000; Osgood, 2012).

Since resistance can counter power, Francis (1998, p.7) claims that *'if a person is positioned as powerless by one discourse s/he may position her/himself as powerful via an alternative discourse'*. And so, it is possible that a working-class, male Law student could be positioned negatively/as powerless via a working-class deficit discourse and yet actively position himself positively/as powerful via a male rationality/independent learner discourse (Read et al., 2003; Leathwood, 2006). Similarly, it is possible that a Law student could be positioned as powerless via a 'student as consumer' discourse and still actively position him/herself as powerful via a 'students as partner' counter-discourse.

People's active positioning can be of themselves and/or of others, which ultimately can negotiate the overall discursive position. However, the end result of the negotiated position may be uncertain, as Walkerdine (1990, p.xiii) notes: *'We are not simply positioned, like a butterfly being pinned to a display board. We struggle from one position to another and, indeed, to break free – but to what?'*

Positioning via discourse can also lead to a duality of positionings and Walkerdine's (1990) work, *Schoolgirl Fictions*, draws upon this dual nature. By way of illustration she recounts the interactions of three primary school children (Annie, Terry and Sean, all four years old) and their schoolteacher, Miss Baxter. In particular, Walkerdine (ibid., p.4) uses the interactions and 'conversations' between them to explain *'the dual nature of positioning'*. Walkerdine's (ibid., p.4) fieldwork observations are as follows:

*Annie takes a piece of Lego to add on to a construction she is building.
Terry tries to take it away from her to use himself, and she resists. He says:
You're a stupid c**t, Annie.*

*The teacher tells him to stop and Sean tries to mess up another child's
construction. The teacher tells him to stop. Then Sean says:*

*Sean: Get out of it Miss Baxter paxter
Terry: Get out of it knickers Miss Baxter
Sean: Get out of it Miss Baxter paxter.
Terry: Get out of it Miss Baxter the knickers paxter knickers, bum.
Sean: Knickers, s**t, bum.
Miss B.: Sean, that's enough, you're being silly.
Sean: Miss Baxter, knickers, show your knickers.
Terry: Miss Baxter, show your bum off.*

[they giggle]

Miss B.: *I think you're being very silly.*

Terry: *S**t Miss Baxter, s**t Miss Baxter.*

Sean: *Miss Baxter, show your knickers your bum off.*

Sean: *Take all your clothes off, your bra off.*

Terry: *Yeah, and take your bum off, take your wee-wee off, take your clothes off, your mouth off.*

Sean: *Take your teeth out, take your head off, take your hair off, take your bum off. Miss Baxter the paxter knickers taxter.*

Miss B.: *Sean, go and find something else to do please.*

Walkerdine (1990) posits that the discourse being drawn upon by the boys is one of sexuality (by using words and expressions like 'show your knickers', 'take your bum off', 'take all your clothes off'). Conversely, Miss Baxter draws upon a discourse prevalent within primary school education (i.e. 'you're being silly', 'go and do something else, please'). The boys' talk, Walkerdine claims, discursively positions the teacher as a sexual object rather than a powerful teacher. The positioning of the teacher is not permanent but momentary, as Walkerdine (1990, p.3) notes:

Both female teachers and small girls are not unitary subjects uniquely positioned, but are produced as a nexus of subjectivities, in relations of power which are constantly shifting, rendering them at one moment powerful and at another powerless.

Expanding upon her analysis, Walkerdine maintains that the boys are able to resist the teacher's moments of power by drawing upon a particular discourse. This weakens the teacher's power. Instead of disciplining them in a traditional way, Miss Baxter is seen to merely indicate that the boys are being 'silly' and for them to do something else. This draws upon a primary school teacher discourse, which encourages self-expression and frowns upon traditional discipline. Walkerdine, therefore, concludes that positions of power derive from discourses. In the above interactions, there is a duality of discourses that emerge and this has an impact on positioning the subject of the discourse. The teacher is positioned as a relatively powerless sexual object whereas the teacher simultaneously attempts to position the boys as no more than trivial. Nevertheless, the boys are able to reposition themselves as relatively powerful communicators of gendered/sexist inequality. As Walkerdine (1990, p.5) notes:

The boys' resistance to her can be understood in terms of both their assertion of their difference from her and their seizing of power through constituting her as the powerless object of sexist discourse. [...] Their power is gained by refusing to be constituted as the powerless objects in her discourse and recasting her as the powerless object of theirs. In their discourse she is constituted as 'woman as sex object' [...] Of course, she has not in a sense ceased to be a teacher, but what is important is that she has ceased to signify as one: she has been made to signify as the powerless object of male sexual discourse.

The concept of discursive positioning is significant in this study, then, as it has informed the construction of the third research question, outlined in chapter four.

The implications for this study

Given that multiplicity and complexity are some of the ontological underpinnings of Foucault's philosophy, an implication flowing from those assumptions is the 'multidimensionality' (Crenshaw, 2009, p.105) of experiences and subjectivities. Lived experiences and subjectivities need to be imagined as a complex multiplicity; as one intersecting site of (dis)advantage or power(lessness). One identity marker cannot, and should not, be treated in isolation (Archer et al., 2003), as to do so would be misaligned to the theoretical framework deployed in this research. Accordingly, 'intersectionality' as conceived by Crenshaw (2009) is foregrounded throughout this thesis so that the 'experience with the single-axis analysis that distorts these experiences' is avoided (ibid., p.105). In particular, the concept and effects of 'intersectionality' (Egharevba, 2001; Crenshaw, 2009; Osgood, 2012; Friedman and Laurison, 2019) are considered in relation to the experiences of the students included in this study. Thus, when carrying out a Foucauldian-informed discourse analysis of the fieldwork data presented in chapters six to eight, I deploy the notion of 'intersectionality' (Crenshaw, 2009) to make sense of various aspects of the data. Attending to intersectionality also address one of the research objectives outlined in chapter four i.e. attending to the complexity of how social class and age of a fast-track Law student intersects with 'race'/ethnicity and gender identity formations.

The benefit of applying a Foucauldian theoretical lens to an already-researched social phenomenon will enable this study to contribute to existing debates in new ways. By offering an alternative reading of taken-for-granted assumptions pervading this area of

higher education existing knowledge/'truth' can be unsettled so that it can '*enable us to think about education differently*' (Ball, 2017) and recognise that '*new ways of knowing become possible*' (Osgood, 2012, p.2). This will be particularly in relation to the classed, aged, gendered and 'raced' experiences of fast-track Law students. Moreover, it will allow me to problematize '*hegemonic discourses*' (Osgood, 2012, p.31) in relation to, for example, 'the intensity' and 'the lack of rigour' of fast-track degrees by offering a (re)reading/an alternative construction of the fast-track Law student's experience.

Debateable notions like 'student experience', 'working-class' and 'intensity' are central to this study. Putting Foucault's theory to work in this research allows terms to be understood as social constructs shaped by discourse. This recognises that there is no absolute truth about what these terms mean. As a result, it avoids the tensions tied up with an all-knowing researcher imposing his/her 'truth' on a research area. It therefore allows me to ask different, more open and speculative questions of student-respondents. Creating opportunities for respondents to frame their own version of 'the student experience' (which is likely to be different from one student to the next) would be closed down by another theoretical approach. Nonetheless, understanding terms like 'working-class' as socially constructed via discourse presents problems. The problem with a Foucauldian approach to social class is that it does not easily allow for a researcher to identify 'working-class' students for a study (Archer et al., 2003). Foucault's theory is more interested in contesting social constructs such as social class. Arguably, a potential solution is to take a theoretical position somewhere in between a modernist and a Foucauldian approach in conceptualising social class (ibid.). Accordingly, using indicators like first generation entry into HE can solve this problematic. Taking this approach combined with allowing the student-respondents to self-identify their social class position is mentioned further in chapter four.

In a similar vein, a social constructionist paradigm, and in particular Foucault's philosophy, allows recognition that within any given research encounter knowledge is co-constructed between the researcher and the respondent (Denzin and Lincoln, 2011) and shaped by the wider discourses that both parties negotiate and draw upon to make sense of their experience. Nevertheless, I recognise that I am implicated in the discourses that shape Law students' discursive constructions of themselves/their thinking. In many respects, I embody and perform 'HE', 'Law' and 'fast-track degrees' and my own identity is shaped by the discourses in which I am located. Given that the student-respondents and I are located in the same discursive field, the students are likely to engage with the same discourses, albeit from different positions.

Foucault's approach allows me to avoid conceiving of the world that is tainted with essentialism (Burr, 2015) and '*naïve positivism*' (Ball and Gewirtz, 1997, p.580). Theoretical frameworks based on essentialism hold that subjects and objects possess inherent underlying ingredients or 'essences' (Burr, 2015). Essentialism can be seen underlying, for example, psychoanalytical/Lacanian understandings of the individual. Therefore, avoiding essentialism allows me to understand the social in a non-essentialist way – which, I suggest, is consistent with Foucault's philosophy. It allows me to appreciate that there are no underlying essences that need to be present in a student's life for him/her to be 'working-class'. 'Working-class' can therefore be conceived as a nuanced and fluid identity. Consequently, the same student can identify as 'working-class' in one place, space and time and dis-identify with it in another (Skeggs, 1997). Taking an anti-positivist approach, consistent with a Foucauldian informed methodology, not only assists justifying the chosen research methods (highlighted in chapter four) it also excludes issues connected with sample sizes, validity, reliability and representativeness (Osgood, 2012). Instead, what is important is to produce authentic 'examples' of qualitative data that resonate with the co-constructed and subjective nature of the world (Fawcett and Hearn, 2004).

Another theoretical dilemma is resolved by putting Foucault's philosophy to work, namely the question of whether structural forces (existing beyond individual lives) or individual agency shape social reality (Berger and Luckman, op cit.; Giddens, 1984). The theoretical dilemma can be aligned to a wider philosophical debate, that of free will or determinism. This debate asks whether individual actions and events are caused by some predetermined force or are instead caused by an individual's ability to choose an outcome (Nietzsche, 1998 [1886]; Harris, 2012). Traditionally, sociologists have been prone to argue that it was either structure or agency that shaped reality. For example, Althusser (1969) held that individuals are shaped by a variety of *ideological state apparatuses* including the higher education system. By contrast, Goffman (1956) recognised the ability of individuals to direct the presentation of themselves in everyday interactions by using either a front stage persona or a back-stage one. Although not the only philosopher to do this, Foucault aims to resolve the dilemma by bringing together both structure and agency within one theory. Structurally, a Foucauldian framework constructs individuals as '*a body [...] docile that can be subjected, used, transformed and improved*' (Foucault, 1977, p.136). Foucault (1984, p.61) also posits that structurally power relations '*weigh on us as a force*' and it is '*a productive network which runs through the whole social body*'. Agentially, Foucault (1979) also recognises that there is resistance to power and that individuals are able to (re)negotiate subject positions.

Applying Foucault's conceptualisations of power and resistance to this study allows respondents to be comprehended in a way that recognises their active resistance to power embedded within discourse. It is possible that some student respondents, for example, may resist and negotiate a 'deficit' discourse. This may be in relation to a perception that fast-track degrees lack academic rigour, which positions students as studying for a sub-standard qualification. They may seek to resist the power embedded within the deficit discourse by aiming to study for a Master's degree at a 'red-brick' university upon the completion of their fast-track degree.

The notion of discursive positioning opens up questions in relation to how discourses construct those who are marked 'Other'. This is significant given the concern with social justice particularly in relation to the classed, aged (gendered and 'raced') experiences of fast-track Law students. De Beauvoir (2010 [1949]) wrote about 'Othering' in relation to gender and held that women are constructed and constrained by discourse. In particular, for de Beauvoir, women are positioned as 'the Other' in relation to men and therefore it is difficult for women to escape from how they are often identified, as secondary to men. Similarly, Edward Said (1978) wrote about 'Othering' of the Orient, regarded by the West, on its terms, as inferior and lacking. By implication, it may be the case that working-class, mature students on a fast-track Law degree at the Langham Institute (a private HEI) are routinely discursively positioned as 'Other'. An unintended consequence of this is that they may be regarded as secondary and inferior to traditional students and this may disadvantage them further.

Conclusion

This chapter has identified a range of Foucauldian concepts: *discourse*, *power/knowledge*, *resistance*, *counter-discourse*, *connaissance*, *discursive positioning*, and *Othering* all of which pervade the research questions. Framing this research within Foucault's philosophy inevitably presents numerous implications for the study; most notable is the capacity for Foucauldian philosophy to enable this study to contribute to existing debates in new ways. By offering alternative readings of taken-for-granted assumptions pervading this area of higher education, existing knowledge and discursive 'truths' can be troubled so that a new contribution to knowledge can be made. A Foucauldian approach also assists in justifying the chosen research methods. The next chapter maps the research design, fieldwork methods and the approach to data analysis all of which have been shaped by Foucault's theory and the underpinning epistemological and ontological assumptions.

Chapter 4: Methods, Methodology and Ethics

Introduction

The last chapter outlined the overall theoretical context for this research. This chapter builds upon that framing by drawing upon Foucault's philosophical tradition to justify the methods deployed in this research. Outlining the research aims and research questions indicates that one aim is to explore the experiences of working-class mature students, which inevitably shaped how social class was conceptualised. I discuss the methodology that underpins the research methods chosen (Carter and Little, 2007; Honan, 2007) in order to arrive at a reasoned justification for the chosen research methods. Therefore, all elements of this study from research design, fieldwork methods and approach to data analysis have been shaped by Foucault's epistemological and ontological assumptions.

Research aims and research questions

Set within a poststructuralist paradigm, the aim of my research is to contribute knowledge to an under-researched area within higher education; how undergraduate Law students (in England) experience their degree. In order to achieve this aim, the objectives of the research were to:

- explore working-class, mature students' experience of a fast-track Law degree;
- utilise a Foucauldian theoretical framework;
- attend to how social class/age of a Law student intersects with ethnicity and gender; and
- explore the relationship between discourses and 'the student experience' for fast-track Law students.

The overarching research question was: 'what are the experiences of working-class, mature students studying a two-year (fast-track) undergraduate Law degree?' From this question, I constructed three precise research questions:

1. What discourses do working-class, mature students draw upon or resist in constructing their experiences of a two-year undergraduate Law degree, taught at a private Law school in the south of England?

2. In what ways and on what occasions do these discourses (re)position them, as powerful or powerless. That is:
 - (a) How exactly do these discourses (re)position them, as powerful or powerless
 - (b) When exactly do these discourses (re)position them, as powerful or powerless
3. To what extent do fast-track Law students negotiate these (re)positions?

The research questions were developed in a non-linear and iterative way, drawing upon the philosophies and concepts encountered along the way. The emergence of the questions was aligned to Foucault's view on the non-linear passage of time and how discourses are formed. Foucault (1972, p.169) writes:

To constitute an archaeological history of discourse, then, one must free oneself of two models that have for so long imposed their image: the linear model of speech (and partly at least of writing), in which all events succeed one another, without any effect of coincidence and superposition; and the model of the stream of consciousness whose presence always eludes itself in its openness to the future and its retention of the past. Paradoxical as it may be, discursive formations do not have the same model of historicity as the flow of consciousness or the linearity of language.

The non-linear development of the research questions was in part a consequence of the shift in research focus between 2011 (when the study began) and 2014 (when fieldwork commenced). In 2011, the primary concern was 'age' as a social identity and how 'the student experience' may differ between younger and older fast-track Law students. Upon reviewing the literature it became clear that a research gap existed in relation to the social class background of Law students. The research focus consequently shifted to account for the significance of the intersections of social class and age. At the outset a Bourdieurian approach to the research was favoured, however, as a deeper engagement with the literature made clear, notions like 'the student experience', 'social class', and 'age' can be understood as social constructs (Burr, 2015) and hence mean different things to different people (Leathwood, 2004; Bottero, 2009). Viewing them in this way therefore insisted upon a theoretical and methodological approach that could allow for an investigation of how these constructs manifest and with what effects.

Further reading made clear that for many educational sociologists reality is socially

constructed via discourse (Francis, 1998; Osgood, 2012; Burr, 2015) and the main philosopher in discourse theory is Michel Foucault. It was at this juncture that educational literature set within a Foucauldian framework provided inspiration on how to undertake a study that could make a useful contribution to this growing field. A pivotal reading was: Read et al. (2003) *Challenging Cultures? Student Conceptions of "Belonging" and "Isolation" at a Post-1992 University*. The authors discussed the construction of academic discourses including 'independent learner' which raised social justice concerns in relation to social class, age, gender, and 'race'. From that point onwards, theoretically, I gravitated away from Bourdieurian and towards a Foucauldian approach. This was the case despite other scholars (e.g. Skeggs, 1997; Allen, 2008; Burke et al., 2017) merging the two philosophies when writing about working-class women. I view this fusion as problematic because there are tensions based on the different ontological assumptions underpinning each framework. Ontologically, Bourdieu (Bourdieu, 1984; Bourdieu, Passeron, Nice and Bottomore, 2014) sees reality as more fixed, for example via concepts of '*field*' and '*capital*' whereas Foucault (1976) sees reality as fluid and shifting, for example via concepts of '*discourse*' and '*power*'.

In addition to the academic literature on the discursive construction of the social, and from my position as a senior lecturer in Law, I noticed that fast-track Law students tend to use discourses about 'Law', 'fast-track degrees', 'hierarchy of universities', and 'the legal profession' (among others) all of which circulate around and within the student body. These discourses tend to be dominant, prevailing and hegemonic (Osgood, 2012) in that most seem to serve the interests of those who are positioned with more power (i.e. the white, male, middle-class elite) in society. At the start of my fieldwork, I sensed that some working-class, mature students drew upon these hegemonic discourses, measured themselves against them, and realised that imagined futures were unattainable. Investments in counter-discourses provided a means to resist the power embedded within the hegemonic discourses that worked to contain and regulate. Accordingly, both 'discourse' and 'social class' became central concepts to this research.

Conceptualising social class

As a means to conceptualise social class I chose to use both a proxy (or '*surrogate indicator*' as Ball [2006, p.6] puts it) and the respondent's own subjective identification. This is an approach taken by others (e.g. Archer et al., 2003; The Paired Peers Project, 2013; Mellor, Ingram, Abrahams and Beedell, 2014) but it was adopted for theoretical and practical reasons. Theoretically, using a social class proxy on its own, would have been misaligned with the co-construction assumption underpinning a project framed by

social constructionism; and it would also have been misaligned with the structure/agency assumptions shaping the Foucauldian approach adopted. The proxy indicator mirrors the structural assumptions within the theoretical framework and the respondents' self-identification of their social class positionality mirrors the agency ones. On a practical level, a proxy alone would have ignored the respondents' own positioning and subjectivity. Trying to establish a respondent's positionality was important when attempting to make sense of what was said and/or relating what was said to the self-presentations. Conversely, the respondent's subjective identification alone would have made it more difficult to identify 'working-class' respondents, as some claimed 'classlessness' and/or dis-identified with being 'working-class'. That was the case even though all student respondents had disclosed that they were first generation entrants into HE. Inevitably, there were obvious tensions with this dual approach because in only a few cases did my proxy 'assessment' of a student respondent's class position correspond with the student's own self-identification. I reflected on this lack of congruence and decided to treat the tension 'as data'.

Below is an illustration of the tension to emanate from my merged (proxy and subjective identification) conceptualisation of social class. By drawing upon field notes made soon after an interview, on 8 July 2014, with one of my student respondents named 'Bob' the tension is made explicit:

8 July 2014: Today, I interviewed Bob (a white, 'working-class', male, aged 27) in one of the teaching rooms on the ground floor of the Langham Institute. I was already sitting in the room upon Bob's arrival. I had already pulled out his information sheet and consent form from my file, ready to go through it with him. He asked me a few questions about the research and how it related to my job. He was very formally dressed, as he told me that he had just done a moot⁸ in class. Bob looked very smart, dressed in a dark suit with a black and white shirt. His facial stubble was very well trimmed and shaped. Conversely, I was wearing a turquoise shirt, blue jeans, and my black Camper shoes.

Despite all student respondents in this study being first generation entrants into higher education I sensed a firm reluctance to self-identifying as 'working-class'. I noticed that

⁸ A moot is a simulation of a court hearing, often at an Appeal Court, where points of law (in relation to a fictitious case) are submitted to a judge.

Bob could not utter those 'dirty' and 'dangerous' words (Skeggs, 1997, p.74) and instead claimed: 'I'm just a real survivor', which can be read as a synonym for 'working-class'. Bottero (2009) argues that individuals tend to speak about class in terms of euphemisms, some of which can be very negative:

People are hesitant to use explicit class labels because, all too frequently, they are terms of abuse. But labels like 'ordinary', 'decent' and 'hardworking' are euphemisms for class, still locating people in the social hierarchy (somewhere between the undeserving rich and the undeserving poor), but without having to engage in direct social slurs. And when people are willing to use terms of abuse, a rich vocabulary – of chavs and asbos, slags and scrubbers – readily awaits, also serving as euphemisms for 'class'. Just as importantly, whilst people's willingness to put explicit 'class' labels on social processes may ebb and flow (as the upsurge of interest in the 'white working class' shows), class inequalities remain depressingly enduring and persistent (ibid., p.12).

An analysis of the euphemism Bob chose aligns with Skeggs' (1997) earlier study of working-class women. Skeggs discovered that women dis-identified with being working-class and preferred to consider themselves as being classless. Skeggs considers how the women went out of their way 'to deny, disidentify and dissimulate' (ibid., p.94) their working class roots. Skeggs argues that class was central to their subjectivities, but not in the sense of claiming to be working-class but as a denial of working-class identity. She claims that this is not surprising as working-class women have often been seen as 'dirty, dangerous and without value' (ibid., p.74) in society.

Skeggs was able to reach this conclusion about working-class disidentification because of the ontological assumptions that underpin her Bourdieurian informed analyses. The theoretical framework for this study however differs from Skeggs' and so it is possible to reach other explanations for disidentification from 'working classness'. Accepting that social class is socially constructed leads to an appraisal that it means different things to different people (Leathwood, 2004; Bottero, 2009) in different contexts, and at different times. As such identifying as more or less 'working class' changes across time and place (Burr, 2015) and is characterised by fluidity, contingency, multiplicity and complexity (Hollingsworth and Mansaray, 2012). Archer et al (2003) attribute the looser sense of social class identity to cultural individualism; contemporary students are now more

inclined to *'reject and resist class identities'* (ibid., p.16). Given that social class is elusive and *'notoriously slippery'* (Bottero, 2009, p.8) the presence of a deep sense of working-class consciousness exists for some yet processes of social mobility shaped by educational successes work to position subjects as middle-class (Walkerdine, 1990; Reay, 1997). Research involving social class therefore needs to treat it as a social construct that is nuanced, and constantly shifting and intersecting with other social identities (Archer et al., 2003).

Given the ontological assumptions underpinning the Foucauldian philosophical structure of this study I searched for a proxy indicator that would be consistent. Several educational researchers (Ainley, 1994; Thomas and Quinn, 2007; Lehman, 2009; Lehman, 2012a/b; The Paired Peers Project, 2013) have used first generation entry into HE, either on its own or with other proxies, as an indication of 'working-class'. Thomas and Quinn (2007) conceptualise first generation entrants as those students whose parent(s) or carers did not have the opportunity to go to university. They claim that *'first generation entrants are those for whom the older responsible generation (not necessarily biological parents) have not had an opportunity for university study at any time in their lives'* (ibid., p.7). Thomas and Quinn (2007, p.7), nevertheless, acknowledge some of the problems in using their conceptualisation, including whether *'an opportunity of university study at any time in their lives'* should include those parents/carers who: attended university and dropped out; studied via distance learning only; studied at university, but not for a degree; and/or obtained a university degree from abroad which is not recognised in the UK. The authors argue that all of these situations should be included within the first-generation entrant categorisation because the impact of parents'/carers' education on their child/dependent is the defining factor.

Using 'first generation entrant' as a proxy indicator presents another problem since it relies upon the notion of *'cultural capital'* (Bourdieu et al., 2014) which holds that if a student's parents have not been to university, that student is likely to have low levels of institutional cultural capital (Reay et al., 2005; Savage et al., 2013). For Bourdieu this is an indication of being 'working-class' (Reay et al., 2005; Freidman and Laurison, 2019). Given that Bourdieu is neo-Marxist (Colley, 2003) his concept might be understood as an extension of the Marxian 'income/economic wealth' conceptualisation of social class which is ontologically at odds with a Foucauldian approach, so presents a theoretical tension.

Given the above considerations it is necessary to reflect on the reason I chose 'first generation entrant' as an indicator and not others (e.g. income, occupation, geography); and furthermore the reason I chose not to utilise it with other proxy indicators as other researchers (e.g. Reay et al., 2009a; Davies et al., 2012; The Paired Peers Project, 2013) have done. Working from a Foucauldian position, first generation entrant provides the 'best' indicator of social class. Following Thomas and Quinn (2007) who draw upon the notion of 'the family' to conceptualise social class, it is important to acknowledge that 'the family' is fragmented, complex and nuanced. Hence a reworked understanding of 'the family' that recognises it as dynamic and fluid directly connects to Foucauldian conceptualisations of reality as constructed, fragmented, complex and nuanced.

By indicating a student's social class position I initially considered other proxies (e.g. occupation, income, geography) later rejecting them as inappropriate since most conceptualisations of social class fail to capture the fluidity and complexity of reality. As noted above, this is one of the central ontological assumptions that underpins a Foucauldian theoretical approach. Archer et al. (2003) usefully expand upon the debate by asserting that the way social class has been conceptualised in sociological research is either in terms of a '*category/modernist/quantitative approach*' and/or a '*process/postmodern/qualitative approach*' (ibid., p.6). The authors hold that, of the two, the modernist approach has been traditionally used in most educational research. The approach largely draws upon Marxist and Weberian meta-narratives which are concerned with economic and status causalities. The meta-approach often sees social class in '*objective*' *occupational terms*' (ibid., p.6), which assumes that it is fixed and incapable of temporarily shifting over place, space or time. The approach has been used extensively in empirical research. For example, Goldthorpe (1968) carried out his study of the 'affluent worker' from Luton by measuring working-class participants in relation to their (manual) occupations. Similarly, in 2001, the Office of National Statistics revised the socio-economic categories used by the Government to identify social class which are still largely based on occupation (Rose and O'Reilly, 2000). More recently other researchers (e.g. Crozier et al., 2008; Reay et al., 2009a; Davies et al., 2012; The Paired Peers Project, 2013; Friedman and Laurison, 2019) continue to use occupation as an indicator of class, although in all cases it has been merged with other 'objective' indicators, for example 'parents' education'.

The central problem with the 'modernist' approach is how a mature university student's social class position can be established. The appropriateness of relying on a student's

occupation or that of his/her parents' occupation is questionable. UCAS⁹ uses the age of 21 to determine this, where a student is over 21 it is their occupation that is used (Archer et al., 2003) and, in line with other educational research (e.g. Crozier et al., 2008; Reay et al., 2009a; Davies et al., 2012; The Paired Peers Project), the parents' occupation if the student is under 21. It is typically the father's occupation that is chosen, which has been problematised by feminist scholars for reinforcing patriarchal structures (Bartley, 1999; hooks, 2004). However, where *both* parents' occupations are considered and taken into account there is the risk of *'the complexities of cross-class'* (Ball, 2006, p.7).

The modernist approach to defining social class is problematic because *'social class cannot be reduced to occupation'* and further social class is *'not homogenous or easily quantifiable'* (Archer et al., 2003, p.11). Instead *'the process' approach should be used because it conceptualises social class 'as subjective and fluid'* (ibid., p.6) and as intersecting *'with other inequalities (such as gender and 'race') and is a lived process that is inextricably linked to 'identity'* (ibid., p.11). Maguire (2005) supports this view, she maintains that social class tends to be based on a realist ontology and a positivist epistemology which ignores class identity and subjectivity. Maguire (2005, p.5) contends that *'[...] the way in which identity transcends time and crisscrosses backwards and forwards into imagined futures and memories of the past'* is rarely considered by researchers.

Taking my own class positionality provides an illustration of the shifting nature of social class and highlights the ways in which it is socially constructed through multiple discourses. My class identity is located (in most places, spaces and across time) as working-class. When I recall memories of the past, growing up (in a semi-detached house) in Essex in the 1970s and 1980s, I draw upon a modernist discourse surrounding social class. I grew up in family of five with two older sisters and working(-class) parents. My father worked as a van driver and then subsequently as a High Court bailiff. My mother worked as a factory machinist and then, in her later years, as an auxiliary nurse. Contemplating my occupation, as a senior lecturer in Law, and then projecting forward to an imagined future as a senior lecturer with a doctorate generates acute discomfort and I encounter a sense of class dislocation. In effect my working-classness is threatened by a middle-class subjectivity that is conferred upon me via educational successes (Walkerdine, 1990; Reay, 1997). As a first-generation entrant into HE (in the late 1980s), I find myself resisting the power embedded within discourses (Read et al., 2003) through

⁹ UCAS stands for 'The Universities and Colleges Admissions Service'

processes of subjectification (Osgood, 2012). I therefore actively work to re-position myself as 'a hard worker' which works to mitigate firm class positionings but is nonetheless captured within 'working-class' discourses (Lehmann, 2009). Moving across place I encounter the feeling of middle-classness to frequently re-emerge. For example, returning to Essex to visit family and friends (most of who have never been to university) I find myself positioned as 'clever'. Yet when I am located in a public sector university (my work space), the middle-classness of this milieu (Crozier et al., 2008) is palpable. The middle-classness of this context is intensified by the presence of confident, well-educated and highly competent (middle-class) colleagues. The context generates uncomfortable affects so that I encounter fleeting feelings of being '*a working-class thicko*' (Stanley, 1995, p.169); inherently lacking and tangibly framed by a working-class deficit discourse. Class positionalities are forever bubbling up dependent upon the discursive landscape in which I find myself.

It is clear that my class positionality has influenced the interpretation of the data and the approaches taken to the research. For instance, I have intentionally represented participants' voices in chapters six to eight in a constructive way, in order to avoid further pathologising working-class students and celebrating '*the personal is political*' (Mills, 1959; Hanisch, 1970; Phipps, 2016). Choosing to focus on working-class students is directly shaped by my own identification as working-class. Taking my classed subjectivity as a resource has inevitably shaped the direction of this study and all aspects of its design and conduct. I now turn attention to how a strong sense of classed subjectivity informed the ways in which I was enabled to undertake fieldwork with a heightened sensitivity to the participants.

Working in the field

Phase one of the fieldwork was carried out over an 18-month period, between February 2014 and August 2015. Follow-up interviews took place in May 2019 during phase two of the fieldwork. Given that one of my research aims was to utilise Foucauldian theory, all aspects of the study were informed by the framework (outlined in chapter three). Below I map out how the research design, generation of data, choice of fieldwork methods, contemplation of fieldwork practicalities, and the approach to data analysis were, in turn shaped by Foucauldian philosophy.

Designing, Accessing and Negotiating

Like the investigations conducted by other researchers (see Read et al., 2003; Watts and Bridges, 2006; Lehmann, 2012a) a qualitative case study design characterised this project. I approached one private higher education institution (HEI) located in an urban area in the south of England, which delivers fast-track undergraduate Law degrees. I chose the Langham Institute as a site for research primarily because it has a high proportion of mature students who I 'read' to be working-class in that the levels '*confidence, certainty, and entitlement*', which middle-class students tend to have in abundance (Reay et al., 2005, p.20) were notably absent. At the time the fieldwork was undertaken I taught on the fast-track Law degree at the Langham Institute, as an hourly paid lecturer. The Langham Institute provided a suitable research site for a case study design because of its uniqueness, which is a hallmark of a case study (Denzin and Lincoln, 2011; Thomas, 2016). At the time the fieldwork was undertaken the Langham Institute did not have its own degree-awarding powers and the fee charged to study the fast-track Law degree was one of the lowest in the country. The Langham Institute operates within the '*hierarchy of universities*' discourse (Leathwood and O'Connell, 2003, p.612) as positioned towards the lower end. Law students (and staff) routinely encounter this discourse and determine how best to resist and negotiate it through subjective experiences of being associated with an institution that carries hierarchical baggage.

The Langham Institute was originally founded in the early 1970s and is one of England's private 'for-profit' HE providers with several teaching sites in the South of England and over 6,000 students. In terms of quality, it claims to be one of a few private providers to have passed a QAA audit. It states a commitment to widening access and enabling social mobility through its focus on strengths-based learning. It positions itself as a provider of vocationally-related degree courses. Despite currently not having its own degree awarding powers, the Langham Institute claims to improve the employability skills of its students. In conjunction with its validating (partner) university, the Institute plans to attain degree-awarding powers and university status in the near future. The Institute has a number of academic schools, one of which is 'the Langham Law School'. One programme that the Law School offers is a fast-track qualifying Law degree (validated by a public-sector university) two years in duration with three intakes per year.

The decision to use only one HE provider was taken because '*the case [study] is singular*' (Denzin and Lincoln, 2003, p.239) and the research sought 'to explore' rather than 'to compare'. The decision was also informed by theoretical considerations, as documented elsewhere in this chapter, that epistemologically knowledge is always partial, local and

situated (Walkerdine, 1990; Haraway, 1991; Osgood, 2020; Wylie, 2012). Using two or more providers, therefore, for a case study design would have produced two or more sets of partial, local and situated knowledges. Further, the decision to use only one provider was influenced by a previous experience of carrying out empirical research for a Masters in Law (LLM) degree when I attempted to gain access to personal injury clients via numerous 'gatekeeper' Law firms. I discovered that the majority of Law firms did not want to provide access to their clients, most likely because I had no professional relationship with any of the firms. The professional relationship that existed between myself and 'gatekeepers' at the Langham Institute went some way to ensure that access was more likely.

I initiated access in the form of an email letter (see Appendix 1) sent to the Provost and the Head of Law. This outlined the nature of the research (including the research aims and questions), and suggested a face-to-face meeting for them to ask me any questions (if required) and to cultivate a trusting relationship and rapport. Fortunately, the experience of negotiating access via the Provost and Head of Law as 'gatekeepers' was unproblematic. There are many advantages of being an 'insider' i.e. carrying out research at a site where one teaches (Costley and Gibbs, 2006; Mercer, 2007). Mercer's insider position allowed easy access to research sites and thus the respondents. It also allowed her to establish a stronger rapport with respondents and afforded more familiarity with the wider institutional context. However, an insider status can present itself as a '*double-edged sword*' (ibid., p.5) as familiarity can lead to *preconceptions 'as a result of their shared history'* (ibid., p.13), which Mercer claims can distort the data. However, unlike Mercer (2007), I was not explicit about the precise focus of the research with students or colleagues. Post-structuralist research is premised on an epistemological assumption that knowledge is partial and situated (Walkerdine, 1990; Haraway, 1991), emerging and co-constructed between social actors (Burr, 2015) including the researcher and the researched (Denzin and Lincoln, 2011). Given my researcher subjectivity and my overriding concern with research about social class and in pursuit of social justice, I contend that a selective focus is almost inevitable. As Reay (2006) contends, it is important that the (once) working-class researcher recognises the value of their classed experiences and puts it to work as a resource in research. Knowledge can only ever be partial, situated and ultimately shaped by the subjectivities of those involved.

In order to gain access to student respondents, I placed an invitation letter (see Appendix 2) on the Law School's Blackboard pages as 'an announcement'. This was also sent automatically as a Blackboard email direct to all current Law students. Secondly, I used

class lists (all of which are compliant with Data Protection legislation) provided by the Law school, to identify students who I suspected (from their names alone) might be mature, first generation entrants into HE. The Law school administrator then provided email addresses for me to contact them directly. This direct approach was effective in gaining the cooperation of the student respondents. Given that most had been students I had taught in the recent past I did not experience significant problems in gaining their cooperation to participate.

However, by the tenth one-to-one student interview, with 'Michael' (a black, working-class, male, aged 28), I initiated an experimental decision that proved to be successful in encouraging his participation. A few days before Michael's interview, and on his request, I disclosed the interview questions via e-mail. I agreed to his request for both practical and theoretical reasons. On a practical level, I believe it allayed Michael's fears about what he would be asked and so encouraged him to attend the interview. While I encountered few problems at the Langham Institute in recruiting respondents for interviews towards the end it became difficult to recruit students according to age, ethnicity, and gender categories set in the sampling framework. I initially feared that disclosing interview questions in advance might distort responses because answers could have been prepared in advance. However, such fears are unwarranted in a study shaped by post-structuralism where concerns for the pursuit of a knowable truth is not relevant (Foucault, Sheridan and Kritzman, 1990). Truths are fabricated, partial, co-constructed, and location specific (Walkerdine, 1990). Providing interview questions in advance merely assisted in the co-construction of knowledge, which occurs in all research settings in any event (Burr, 2015). The decision to pre-disclose interview question was so effective with Michael that I decided to take this step for all other individual interviews (including the tutor interviews).

Details on 'Exampling'

It was not intended that respondents (students or tutors) should be representative of a wider population since the study is not located within the positivist paradigm (Denzin and Lincoln, 2011; Burr, 2015) or in search of generalisability. As already outlined, this study is located within a social constructionist paradigm, framed by poststructuralism and so recognises the value of research data that is generated from partial and situated knowledge (Haraway, 1991) and it is resolutely not in search of an absolute 'truth' (Foucault et al., 1990) waiting to be discovered. Furthermore, it is the specificity of the research and the context in which it is undertaken that holds the potential to generate new knowledge that can disrupt accepted ways of thinking and knowing about a given

issue, in this case the classed experiences of non-traditional HE students (Walkerdine, 1990; Denzin and Lincoln, 2011).

To obtain interviewees representative of a wider population requires the selection of a *sample* of respondents (ibid.). I wanted to avoid this because my intention was to generate rich data that would offer cases that could provide depth, highlight discourses and discursive positionings, and to have resonance elsewhere, rather than seeking to claim some form of truth about working-class, mature students of Law. Watts and Bridges' (2006) case study research explored the value of non-participation in higher education via young working-class individuals who had not gone to university. They drew upon nine case study 'real' and 'concrete' 'examples' (ibid., p.273) and intentionally avoided constructing 'a sample'. Drawing upon their work, I intentionally constructed a collection of *example* respondents.

Between February and December 2014, I interviewed 12 students. In order to construct a collection of *example* Law students, I used the following criteria as a guide:

Social class	Age	Gender	Ethnicity
Working class: 12	21-30: 6 31+: 6	Male: 6 Female: 6	White: 6 BME ¹⁰ : 6

In April and July 2015, I also carried out two focus groups of Law students by using the following criteria as a guide:

Social class	Age	Gender	Ethnicity
Working class: 4	21-40: 2 41+: 2	Male: 2 Female: 2	White: 2 BME: 2

In August 2015, I also interviewed six Law tutors by using the following criteria as a guide:

Social class	Age	Gender	Ethnicity
Working class: 3 Middle class: 3	30-48: 3 49+: 3	Male: 3 Female: 3	White: 3 BME: 3

I contend that the example sizes are appropriate given that most of the interview data comprised rich, detailed qualitative accounts that provided the means to explore and

¹⁰ Black and Minority Ethnic

identify a range of discourses. The extent to which the 12 example respondents matched the social categories in the above criterion is detailed below.

Social class	Age	Gender	Ethnicity
Working class: 12	21-30: 6 31+: 6	Male: 6 Female: 6	White: 6 BME: 6

Of the 'example' students, six were 'home' students, two were EU students and four were 'international'. Even though I am not aiming for representativeness in my research, my 'example' of 12 Law students is consistent (and has resonance) with the broader picture of students who study at private HE providers in the UK (Hughes et. al, 2013).

The composition of the collection of examples (n: 3) for the first focus group was:

Social class	Age	Gender	Ethnicity
Working class: 3	21-30: 2 31+: 1	Male: 2 Female: 1	White: 1 BME: 2

The composition of the collection of examples (n: 6) for the second focus group was:

Social class	Age	Gender	Ethnicity
Working class: 6	21-30: 0 31+: 6	Male: 4 Female: 2	White: 0 BME: 6

The composition of collection of examples for the six Law tutor one-to-one interviews was:

Social class	Age	Gender	Ethnicity
Working class: 2 Middle class: 4	30-48: 3 49+: 3	Male: 3 Female: 3	White: 4 BME: 2

It is noticeable that the four sets of examples resemble the relevant criteria guides reasonably well, except for the second focus group. Even though all participants in the second focus group were 'working-class', it is evident that the group is skewed towards an older, male, BME collection of examples. Before conducting the second focus group only two student-respondents confirmed that they would be able to participate. This number, for me, did not constitute 'a group' and so rather desperately I obtained the permission of another Law tutor to attend her class (at the end of a teaching session) to talk briefly to students about the focus group and the research generally, so as to

encourage their participation. In order to make my research 'more attractive', I drew upon the work of Egharevba by offering to do something in return for their time, which might help their lives. Egharevba (2001, p.233) described this as '*giving back to the researched*'. I therefore offered individual study support as the 'payment' for their time. This, I believe, was successful because I was able to recruit four students, all of whom constituted the majority of examples for the second focus group.

In order to answer the above research questions, I document the fieldwork methods below.

Methods used in 'working the field'

The fieldwork methods I used included interviews with 12 Law students and six Law tutors, two student focus groups, and informal observation. I also carried out documentary (deconstruction) analysis of various government policies and other documents (presented in chapter five), all of which are connected with 'the student experience', higher education, and fast-track (including Law) degrees. I now turn to outline the detail for each of these methods.

My main research tool was qualitative interviews with students. Like the investigations conducted by other researchers (including Francis, 2000; Reay et al., 2009a; and The Paired Peers Project, 2013), I used individual, face-to face, semi-structured interviews, aided by an interview guide (see Appendix 3). All interviews were conducted in an empty classroom that had been pre-booked at the Langham Institute. For reasons connected with power asymmetries and the issue of assessing students' work, I did not interview my own current students. I interviewed students that I had taught sometime in the past (in their first semester of study) and who were, at the time of the fieldwork, beyond the first semester of their degree.

In June 2013, I carried out a small pilot study, by interviewing two fast-track Law students at the Langham Institute. I concluded that carrying out even a small pilot study was a crucial stage in preparation for the fieldwork for the main study. Van Teijlingen and Hundley (2001) assert that apart from helping the researcher test-run a research tool, a pilot study allows for a detailed reflection of what improvements the researcher can make to the research design and, moreover, what has been learnt from the pilot. In Appendix 4, I outline learning from the pilot including analysis (e.g. analytical memos and coding) and writing reflections in a research diary. Despite spending considerable time on the pilot interviews, I was unprepared for a problem that arose in the main fieldwork (phase

one) – forgetting to switch on the tape recorder(!) which I offer reflections on in chapter nine.

Qualitative interviews are consistent with a social constructionist epistemology (see Heath, Brooks, Cleaver and Ireland, 2009) where emphasis is placed on the subjective meaning and emphasis of respondent's words. Semi-structured interviews are also aligned with the ontological assumptions, underpinning the theoretical framework of this research. Foucauldian approaches recognise the significance of both structure and agency. Structurally, a Foucauldian framework constructs individuals as '*a body [...] docile that can be subjected, used, transformed and improved*' (Foucault, 1977 p.136). Foucault (1984, p.61) also posits that structurally power relations '*weigh on us as a force*' and it is '*a productive network which runs through the whole social body*'. Agentically, Foucault (1979) recognises the resistance to power that individuals are able to (re)negotiate through shifting subject positions. Semi-structured interviews allow space for both structure and agency and so support the theoretical ambitions of this study. Practically, semi-structured interviews allowed different students to be asked similar questions while also providing space for students to respond in fairly fluid ways. For this reason, unstructured or structured interviews were discounted since they fail to provide opportunities for the interplay of structure and agency. Heath et al. (2009) suggest that unstructured interview offers too much agency, whilst structured interviews are overly directive. The use of semi-structured interviews allowed for lengthy and sometimes unpredictable explorations of the three research questions, and created opportunities for students to construct narratives about their student experience and dwell upon the extent to which they took up, resisted or negotiated available discourses, and how this (re)positioned them.

The one-to-one interviews were also used to identify students to participate in the subsequent focus groups, discussed below. I decided to take this approach for primarily practical reasons. It was easier to recruit these students to a focus group because they were now familiar with the topic of the research and we had built a degree of research rapport. Smithson (2009) claims that focus groups generate debate between participants because there is always disagreement on issues within a group. However, as a group interview, which will produce a different dynamic to a one-to-one interview, using the same students produces different data as it is co-constructed between students, rather than data produced between one student and me as researcher. She writes that: '*Participants engage in a range of argumentative behaviours, which results in a depth of dialogue not often found in individual interviews*' (ibid., p.368). Smithson maintains that

focus groups are effective at capturing collective and current discourses (and counter-discourses via resistance), but these tend to be normative ones because the less confident participants, and those with unpopular views, tend to be more silent in a group situation. Smithson's position partly informed a decision to use the same respondents for both one-to-one interviews and focus groups. Given that only three of the nine focus group participants arrived at the focus group via this route, the strategy was only partially successful.

Aligned with previous research (including Leathwood, 2006; Moreau and Leathwood, 2006a; Osgood, 2012; The Paired Peers Project, 2013; Burke et al., 2017), focus groups were effective at generating rich data. In April 2015 and in July 2015, I conducted two focus groups with students. In preparation I carried out one pilot focus group. This proved extremely useful because it allowed the focus group topic guide (which included the showing of four short video clips) to be trialled, and it also allowed for basic discourse analysis on the focus group data (in the form of analytical memos in the margin of the transcript) and for reflection on the pilot itself. These reflections are recorded in Appendix 6.

In relation to the video clips, I selected four excerpts from the *'This Life'* (Fallon, 1996) DVD. *'This Life'* is a drama largely set in a shared house in south London and a Law firm/set of chambers in central London. The characters are all Law graduates (and friends from university) who share a house together and work in the legal profession. Arguably, its uniqueness (at the time) was the fly-on-the-wall documentary style approach to filming that was applied to the drama. I selected a video clip about each of the four main characters: 'Egg', 'Milly', 'Miles', and 'Anna'. The four clips showed Egg receiving an offer letter for a trainee solicitor job; Milly's first day as a newly qualified solicitor in court defending an older female client; Miles in his chambers deliberating about taking on an insider dealing case; and Anna receiving a rejection letter for a newly qualified barrister's post.

The overarching rationale underpinning the selection of the four clips was informed by prior reading. Drawing upon Sommerlad et al. (2010) and Ashley (2010), who conclude that the legal profession lacks diversity and is inherently elitist, I read the *'This Life'* clips as showing the classed, gendered, aged and 'raced' nature of gaining entry into, and navigating a way through, the legal profession. Theoretically the legal profession represents a 'field' where power relations are played out (Francis, 1998). Those positioned with more power (i.e. male, middle class, younger, white lawyers) are

predisposed to accessing, and/or successfully navigating their way through with greater ease than those who are positioned with less power i.e. female, working class, older, and BME lawyers (Sommerlad et al., 2010). For example, I selected the Milly clip because it shows what I read to be (the intersection of) the gendered, classed and raced nature of the legal profession. It shows an Asian, female, middle-class, 20-something, newly qualified solicitor 'successfully' navigating the harsh world of legal practice. In particular it shows 'Milly' taking instructions at court from an older female client who questions why the Law firm has sent '[...] *only a girl*'. Milly successfully resists the gendered discourse that her client uses by drawing upon a classed counter-discourse that she is able to exploit, i.e. a middle-class confidence and sense of entitlement to be there (Skeggs, 1997; Reay et al., 2005). Milly is therefore able to resist being positioned by her female client as a '*space invader*' and a body '*out of place*' (Puwar, 2004, p.8).

After the pilot, and in relation to the 'Milly clip', I was disappointed that none of the participants reacted to the '*...but you're only a girl*' comment which, given there were three women participants in the pilot, might have provoked discussion. The silence on the issue is interesting data in itself (MacLure, 2003) because it reinforces neo-liberal discourses that inform ideas about who gets to be a lawyer. Structural reasons for social issues (e.g. gender inequality) are diverted from attention and instead the focus is on individual personal failings and responsibilities for personal misfortune (Giroux, 2013; Francis, Burke and Read, 2014). Following the pilot, I noted a misalignment between the content of the video clips and the stated aims of the research. One participant asked: '*What was the point of the video clips, because I thought at the start you said that your aims were about the student experience, so what do those clips have to do with the student experience?*' Drawing upon the work of Maguire (2005) I responded that the video clips were intended to generate a discussion about Law students' imagined futures based on what they know and have experienced in the present and/or the past. Arguably, this was important to include in the focus group because '*[...] the way in which identity [...] transcends time and crisscrosses backwards and forwards into imagined futures and memories of the past*' (ibid., p.5) is rarely considered in empirical research. I reflected upon the research aims in preparation for the main focus groups and changed the wording (which was verbalised at the start of the main focus groups) to: '*As you know, my research aims are to find out about the Law student experience, but I'm also interested in what Law students imagine their futures might be when working in the legal profession*'.

For technical reasons, I had decided to video record (using my iPhone) the relevant video

clips. I then transferred them onto a laptop in order to play the recordings to the pilot focus group. All I could manage to record were relatively short (30 seconds) clips and, inevitably, the end result lacked quality. This was confirmed by feedback: that the Miles video clip had been inaudible. Others suggested that video clips should last longer than 30 seconds, so that more about each character should be known. Upon reflection, and in preparation for the main focus groups, I asked the media department at my university to assist in recording four 1 min video clips from the 'This Life' (Fallon, 1996) DVD. The copying was copyright-compliant, with the help of the BBC and the university, and compliance with copyright Laws took a considerable amount of time (approximately from November 2014 to February 2015).

Focus groups are notoriously difficult to organise (Kamberelis and Dimitriadis, 2005; Acocella, 2012), because they require several people to attend at a mutually convenient time and place. In spite of that, as an 'insider', the aim was to organise two focus groups consisting of four students, from the same teaching group. I envisaged this would allow for the focus groups to take place at the end of a teaching session, at an off-site location nearby. Having a small number of participants involved should provide an environment where all students felt able to contribute to the discussion (Smithson, 2009; Kamberelis and Dimitriadis, 2005).

The two focus groups were conducted in an empty classroom that had been pre-booked at the Langham Institute. The focus groups involved (among other things) asking questions about student experience and about imagined futures of working in the legal profession. Given the Foucauldian approach, student focus groups allowed for co-construction, the identification of hegemonic discourses and the generation of counter-discourses. As noted above, given that social reality is not fixed, but rather fluid and complex (Foucault, 1976; Weedon, 1994; Burr, 2015) the focus groups were effective at capturing fluidity and complexity. The focus groups were used to provide rich, insightful data designed to complement the one-to-one interviews and not to crosscheck the validity of the interview data (Osgood, 2012). This was because a group dynamic influences the way that students talk and reflect, to the extent that the data produced formed co-constructed knowledge between the students themselves (Burr, 2015). Focus groups enabled the epistemological assumptions, stated earlier, underlying a Foucauldian framework to be actualised in the field.

As researcher, my role in the focus groups was '*to facilitate discussion*' (Smithson, 2009, p.360) however I allowed students to steer the discussion and decide what was important

in the ways that they constructed accounts of their student experience. I used a 'topic guide' (see Appendix 5) containing a small number of topic areas, which were introduced to generate debate.

In July and August 2015, I interviewed six Law tutors all of whom drew upon or resisted particular discourses in relation to fast-track Law students and student experience. This provided interesting insights into how Law tutors talked and thought about working-class students, fast-track degrees and contemporary higher education more generally, which was compared with the students' accounts (all of which is analysed in chapters six to eight). I used individual, face-to face, semi-structured interviews via an interview guide (see Appendix 7). Apart from one, all tutor interviews were conducted in an empty classroom that had been pre-booked at the Langham Institute.

All interviews and focus groups were recorded (with permission) and then transcribed. I intended to transcribe the first few interviews myself but, as this was a time-consuming process, I instructed a transcription agency instead. The agency was obliged to keep the data confidential via a confidentiality agreement and also pursuant to Data Protection legislation. This decision allowed me to spend more time on (initially) analysing the data, which arguably is more important than transcription (Silverman, 2006). Nevertheless, after the transcription of each interview, I listened to each recording several times while simultaneously reading the transcribed interview text, to re-familiarise myself with the interview (i.e. to bring the text 'to life'); and to check the accuracy of the transcription.

I also carried out documentary (deconstruction) analysis (Osgood, 2012). This was of various policies, institutional and media texts, because the discourses that the students drew upon or resisted could then be traced within official discourses in relation to 'the student experience' and/or discourses used in relation to fast-track Law programmes (by the Law tutors). This further layer of discourse analysis aimed to reveal how multiple discourses intertwine in a complex and fluid way.

The texts that I analysed were a combination of national policies, the Langham Institute's website and its undergraduate prospectus, and media articles. For example, I analysed the BIS' (2011) paper entitled '*Higher Education: Students at the Heart of the System*', which uses a '*student experience*' discourse that positions university students '[...] *at the heart of the system* [...]' (ibid., p.14) and explicitly refers to students as '*consumers*' who should seek out '*good value for money*' (ibid., p.32) from their degree studies. I also analysed the website from the Langham Institute, which positions fast-track Law students within an 'employability' discourse in that it claims that a fast-track Law degree '*allows*

you to start working and earning one year earlier'.

The national policies, institutional texts and media articles chosen were informed by what existed in the interview data with the students and tutors. I concentrated on the discourses the students and tutors variously drew upon, resisted and negotiated, as well as the emergence of counter discourses. The main discourses concerned intensity, consumerism, investor, partner, and employability. I then searched for national policies, institutional texts and media articles that also drew upon and resisted these same discursive constructions. Including policy and other documents at different levels offers a powerful means of investigating hegemonic discourses (of government and other powerful institutions) that are circulated and enacted through local practices (Osgood, 2012).

Lastly, I carried out informal observations by '*making the familiar strange*' (Mills, 1959; Teo, 2014). I made observation notes about the Langham Institute's students and tutors, its internal and external 'spaces' and the locality in which it operates. It was then possible to align these observations with the respondents' interview data and to ensure that my own (insider) observations took on an '*ethics of care*' (Costley and Gibbs, 2006, p.89) by '*reframing*' them as '*a mutual activity*' (ibid., p.94). For example, I asked respondents questions about the classrooms, the building and the immediate surrounding area. They drew upon, resisted or negotiated spatial discourses (e.g. compact/crammed spaces) which can be allied with how they spoke about the degree i.e. via intensity discourses. Informal observation, as a method, is aligned with a Foucauldian theoretical philosophy. Foucault (1977, p.204) wrote about disciplinary power with reference to a Panopticon metaphor where power/knowledge gets played out:

The Panopticon functions as a kind of laboratory of power. Thanks to its mechanisms of observation, it gains in efficiency and in the ability to penetrate into men's behaviour; knowledge follows the advances of power, discovering new objects of knowledge over all the surfaces on which power is exercised.

Informal observations were, therefore, carried out to further knowledge based on the power being used by me as an '*all knowing researcher*' (Francis, 2000, p.25).

Analysing Data

The fieldwork generated a variety of written 'texts'. In the discourse analysis of the texts, I (re)read the data closely, coded manually and recorded emergent themes (Osgood, 2012). I coded from a generally inductive approach to qualitative data analysis (Thomas, 2003) and a Foucauldian informed discourse analysis. This approach is consistent with the aims of this research which, shaped by Foucauldian informed discourse analysis, requires a 'bottom up' approach (Burr, 2015). Viewing analysis through this framework holds that discourses (i.e. language, textual representations) create reality (rather than the other way around). This is consistent with a general inductive approach to coding, which Thomas (2003) claims is a 'bottom up' approach also. The detailed steps in relation to how the coding was undertaken is outlined in Appendix 8.

After coding the interview data I prepared analytical memos in the margin of each interview transcript. I did this as the data was collected so that the task did not become too burdensome. This approach enabled me to avoid the danger of viewing analysis as a discrete 'next stage' of the research process. Drawing upon the work of Osgood (2012) the texts were also analysed via processes of deconstruction. This ensured that an analysis of discourses could be made with the aim of highlighting contradictions existing within the data (MacLure, 2003). The precise approach I took in carrying out a discourse analysis of the interview and focus group data was informed by Foucauldian conceptualisations of discourse. I worked with both MacLure's (2003) approach to deconstructionism, which opens new avenues of critical enquiry and understanding, and Carabine's (2001) genealogical analytic approach. Working with MacLure and Carabine ensured the analysis of interview data was comprehensive in the way that I went about interrogating the texts. Combined, MacLure and Carabine offer overlapping questions for analysts to address (e.g. looking for metaphors, gaps and silences in the text), and both encourage researchers to ask Foucauldian-inspired questions that seek to dismantle, unsettle and trouble taken-for-granted assumptions that appear common sense and reasonable.

As the data chapters (chapters five to eight) show, I was particularly drawn to eliciting the metaphor in data as part of the approach taken to discourse analysis. Inspired by MacLure (2003) metaphors used in any text signify '*the poetics*' intertwined with '*the politics*' (MacLure, 2003, p.82) embedded within any given discourse. Identifying metaphors within the data facilitates a discussion of social justice issues which given the ambitions of this study was an important consideration. The overall approach to data

analysis is shaped by social constructionism in that *'it takes a critical stance towards taken for granted knowledge'* and understands knowledge to be constructed between people interacting with each other, particularly via language (Burr, 2015, p.3). An immersion in the data revealed respondents frequently drew upon and navigated discourses by deploying metaphors from artisan construction. I also invest in this sense making by unconsciously viewing narrative accounts as the equivalent of building a property. An artisan builder does it from all the available resources – and in most cases those which are local. Some resources the artisan will use (draw upon), some s/he will reject (resist), and some resources s/he may adapt (negotiate). This framing is revisited throughout the data chapters but at this juncture I turn to ethical issues encountered throughout this research and offer an account of how they were managed.

Ethical issues

Informed Consent and Power (A)symmetries

I obtained informed consent from the respondents in writing (BSA, 2017) at the start of the interviews and focus groups (Osgood, 2012). Consent was obtained after respondents were informed about the nature of the research (BSA, 2017; BERA, 2018). However, as Mercer (2007) notes, this often leads to further ethical dilemmas because to inform the respondents fully before they can consent, the researcher has to disclose everything including, for example, the precise nature of the detail of the research aims and questions.

For a positivist researcher the disclosure of research aims and questions contaminates the data by distorting the views of the respondents (Mercer, 2007) but given the theoretical orientation of this study (as described throughout this chapter) it was not a concern. The Foucauldian framing insists that there is no knowable or discoverable truth (Foucault, 1976), rendering Mercer's argument irrelevant. Nevertheless, the sensitive nature of this research into social class ran a risk of respondents dis-identifying as working-class (Skeggs, 1997). Hence, the way in which I presented the research to the respondents was more general and avoided specifically stating the precise aims of the study (Francis, 2000). This approach raises issues of power (BSA, 2017) because by resisting full disclosure of the research to respondents risks creating an imbalance in power relations. As Francis (2000, p.25) has argued, withholding some information from respondents inevitably positions the researcher as the *'all knowing expert'* consequently, respondents feel powerless at having been 'kept in the dark'. In an attempt to address this issue of power, and borrowing from McDowell (2001), I questioned all students

'gently' at the start of the interview (which also allowed me to build a rapport) by asking them for a brief biographical narrative. For example, I asked them: 'tell me about your life'; 'where did you grow up?'; 'what was school like for you?' and 'how about your family life?' I also self-disclosed information about my own social background (e.g. my social class identity, my age) and the nature of the research.

Right to Withdraw

Several months after conducting an interview with one of the Law tutors, 'Irene' (a white, 'working-class', female, aged xx¹¹) asked to withdraw her transcript from the study. My immediate response was to say, '*of course you can*' and I naturally enquired as to why she wanted to do this. Irene said that she had read the transcript back to herself and that she now feared that some of the material discussed could have negative consequences for her, as she was still working at the Langham Institute. My slightly delayed response was mild disappointment and, not wanting to lose her data, we eventually agreed a negotiated withdrawal. This involved offering Irene the opportunity to delete (using strike-through) parts from the interview transcript that she most feared. In order to make sense of what had happened, and also treating this event 'as data', I analysed it by putting to work Ahmed's '*affective politics of fear*' (ibid., 2014, p.62) and in particular her concept '*economy of fear*' (ibid., p.15). This holds that fear gets assigned to some bodies (and not others) and those bodies become '*sticky*' (ibid., p.89) within a wider economy-like network. The bodies most feared often then constitute a collective danger operating within a discursive culture of fear for others within that ethos.

Given that I also experienced mild fear about initially interviewing the student respondents, as noted earlier, my fear can be aligned with Irene's even though we would have experienced our fear very differently. Fear then became assigned to both the Langham Institute and some of its students. Those separate bodies had become '*stuck together*' (ibid., p.13) constituting a collective danger for both Irene and me, as we were both Law tutors at the Langham Institute at the time. But dialectically, Irene and I were also 'stuck together'. The 'stickiness' can be aligned to us both possessing working-class and Law tutor subjectivities intertwined with an ability to resist being fearful for some of our time at the Langham Institute. I maintain that where there is fear, there is power and in turn '*where there is power there is resistance*' (Foucault, 1978, p.95). Our mutual

¹¹ 'Irene' wanted her precise age to be withheld in this thesis through fear of identification

resistance constitutes a collective danger operating within a discursive culture of fear for both the Langham Institute, and perhaps some of its Law students too.

Confidentiality

During fieldwork I was aware that in order to ensure respondents talked openly (both in the focus groups and in the interviews) I needed to provide a commitment to confidentiality (BERA, 2018). This included stating (in writing) that no data would be disclosed to any unauthorised third party e.g. other teaching staff at the institution. In relation to the student respondents, and borrowing from McDowell (2001, p.91) I also wrote in the invitation letter that: *'Even though I am a [Law] lecturer and clearly connected to [the Langham Institute] the [Langham Institute] does not know who has agreed to participate in this research and who has not' and '[...] agreeing/not agreeing to participate will not affect any assessment grade you may receive [...]'*.

In relation to the focus groups certain rules were negotiated. Whilst the group was assured of anonymity and confidentiality, I could not be certain that each participant would do the same (Smithson, 2009). I therefore had to make it very clear at the outset that what was said in the discussion remained confidential and was not to be discussed outside the focus group (ibid.). Nevertheless, I appreciate that this 'ground rule' relied upon goodwill and a sense of collective responsibility, which could not be guaranteed.

The overall assurance of confidentiality was partially qualified. Despite an initial assurance of confidentiality, McDowell (2001) was aware that if a researcher uncovers interview data that places a respondent in danger (e.g. a respondent telling an interviewer about being a victim of unreported abuse) then a researcher is under a legal/moral duty to report it to an appropriate authority (BERA, 2018), thereby breaching the respondent's confidence. I did not face this ethical dilemma but McDowell (2001) offers useful advice to novice researchers when she argues that in order to maintain assurances of confidentiality, the respondent should be encouraged to self-report to an appropriate authority, which others (e.g. Francis, 2000) have used successfully.

Conclusion

This chapter has provided a detailed account of the research methods (i.e. one-to-one interviews, focus groups and policy text analysis) used in this study. The methods are internally consistent with the ontological and epistemological assumptions underpinning

the theoretical framework. The 'sample' of respondents was also discussed, specifically in relation to how data is generated from a social constructionist position which renders representativeness and generalisability irrelevant. The ethical issues of informed consent, power, withdrawal and confidentiality were also addressed.

This chapter has made clear that this study is placed within a Foucauldian framework and explicitly aims to explore working-class, mature students' constructions and experiences of their undergraduate fast-track Law degree. The intention of the research is to offer alternative readings of taken for granted assumptions pervading this area of higher education so that new ways of knowing become possible. Attending to the co-construction of knowledge and the ways in which discourses function are fundamental to this study. The next chapter seeks to interrogate how knowledge is constructed and how the circulation of particular discourses within key documents shape ideas about fast-track Law degrees. The analyses of a series of selected documents is informed by the overarching question: how are 'fast-track' undergraduate degrees, 'higher education' and 'HE students' constructed via discourses in powerful texts?

Chapter 5: Discourse analysis: deconstructing government policies, media texts and an institutional document

Introduction

This chapter directly connects to chapters two to four; chapter two demonstrated that most research literature claims that 'fast-track' undergraduate degrees are 'intensive' and tend to have a vocational focus. The literature also indicates that 'higher education' in the UK (as elsewhere globally) is becoming increasingly vocationalised in drives to make students more employable. This preoccupation with employability is directly connected to concerns for nation states to cultivate globally competitive workforces. Chapter two also argued that HE students are increasingly conceptualized as consumers of HE and actively invest in their futures. However, more recent conceptualizations of university students (re)imagine them as working in partnership with the academy. Viewing students as partners fails to account for diversity and difference amongst the student body, specifically the fact that non-traditional students are disadvantaged by and within HE. Chapter three turned to the theorisation of student identities and experiences of HE, recognising that these are socially constructed via discourse; and that discourses have certain '*functions and effects*' (Osgood, 2012, p.35). Of particular interest is the way in which discourses work to position (temporarily) individuals which can produce lasting effects upon the sense people make of themselves. In order to investigate the ways in which discourses work to discursively position students in HE, chapter four recounts the method of deconstruction and how this facilitates a critical analysis of various powerful texts.

This chapter draws upon and works to extend the (above) three chapters by interrogating selected documents by asking the overarching question: how are 'fast-track' undergraduate degrees, 'higher education' and 'HE students' constructed via discourses? National policies, media articles and an institutional text were selected for analyses based upon the discourses that emerged throughout the interview data. Hegemonic discourses concerned the supposed 'intensity' of contemporary (fast-track) HE and specifically fast-track pathways; another identifiable set of discourses centred around the construction of the student as either consumer, investor or partner; and finally 'employability' provided the analytic focus since it persistently surfaced within the narrative accounts provided by the students (and tutors). These discourses provided the analytical framework from which national policies, an institutional text and media articles could be interrogated to explore the discursive construction of mature, working-class

students on a fast-track degree. By including policy and other documents at different levels it was possible to identify and investigate the ways in which hegemonic discourses (promoted by Government and other powerful institutions) are circulated, enacted or subverted through local practices (Osgood, 2012). This further layer of discourse analysis reveals how multiple discourses intertwine in complex and fluid ways. Hence, whilst 'higher education', 'fast-track' degrees and 'HE students' are multiply constructed, often in contradictory ways, they nevertheless work to discursively position particular students in deficit terms.

Considering how this specific group of students experience HE and position themselves against hegemonic discourses has not been undertaken before. This study with a concern with mature working-class students on a fast-track degree; and framed by a Foucauldian informed approach to discourse analysis, offers fresh insights that build upon and extend that which is already known about mature working-class student experiences of HE (Read et al., 2003; Archer et al., 2003; Reay et al., 2005; Reay et al., 2009a; Lehmann, 2012b; Burke et al., 2017). Subjecting national (higher) education policies, media articles and the Langham Institute prospectus to critical deconstruction unsettles the seemingly benign and common-sense messages within the texts and so therefore holds the potential to arrive at alternative accounts of contemporary HE. By asking Foucauldian-inspired questions, I dismantle taken-for-granted assumptions that are so deeply entrenched that they appear both common sense and reasonable. Through exercises of deconstruction I unearthed a remarkable (mis)alignment between and within these documents particularly in relation to how discourses surface, become re-inscribed whilst often contradicting prevailing narratives about HE. There was also (mis)alignment between the discourses pervading the documents in this chapter and the discourses that arose in the interview data outlined in chapters six to eight. Consequently, the implications for non-traditional student in this study (who are already disadvantaged on account of their social class and age) are significant. I contend that the disadvantage is further intensified by the functions and effects of hegemonic discourses that work to further devalue and denigrate 'intense', 'vocational' degrees studied at non-elite institutions. In effect, the mature working-class students, studying a vocational degree in the private sector become *triply* disadvantaged in a context where the young, middle-class student, studying an academic subject at an elite university provides the mythical norm against which they are judged.

In order to explore how discourses of intensity; consumer, investor, partner; and employability, work to position this group of students in particularly unhelpful ways I begin

by mapping the discursive landscape in which they find themselves. Turning attention to the broader context allows dominant constructions of two-year undergraduate degrees, 'the HE student', and contemporary HE more generally, to be unpacked and problematised. This is done in order to unsettle and trouble taken-for-granted assumptions that appear common sense and reasonable. Unsettling the related and interwoven discursive constructs of fast-track degrees, HE students, and HE is achieved by undertaking a Foucauldian-informed discourse analysis. This allows the research to contribute to existing and ongoing debates about fast-track degrees, HE students, and HE that are concerned to expose social injustices.

Mapping the discursive landscapes

This chapter is located within the wider context of the political economy, and in particular - globalisation, neoliberalism, marketisation and the economisation of (higher) education.

As stressed in chapter two, any change in a university's approach of delivery from a standard undergraduate three-year degree to a two-year 'intensive' degree is often understood as taking place within the context of a neoliberal, marketized, consumer-driven and 'flexible' model (Thornton, 2012). Similarly, the various ways that HE students have been constructed is shaped by significant trends and developments in educational policy i.e. the economisation of education (Tomlinson, 2005; Beckton, 2009; Neary and Winn, 2009;) and, in turn, the marketisation of education (Ball, 1990a; Le Grand and Bartlett, 1993; Lynch, 2006; Brown and Carasso, 2013; John and Fanghanel, 2016) via notions of competition and choice (Brighouse, 2000; Apple, 2005; Butler et al., 2007; Bunar and Ambrose, 2016). This is especially apparent in the construction of 'student as consumer' and 'student as investor' discourses - both of which are characteristic of a neo-liberal (Giroux, 2013), and post-welfare (Tomlinson, 2005) state. Notions of employability are also located within the wider context of the political economy. But employability is also situated within the wider policy trends and developments in relation to vocationalism, meritocracy, and the hierarchy of universities. As mapped out in chapter two, HE (including Law schools) has become increasingly vocationalised (Thornton, 2012). It is commonplace for HE to now spend more resources on student skill acquisition, vocational subjects and ensuring that students are employable (Baker and Brown, 2007; Hinchliffe and Jolly, 2011; Jackson, 2016).

Within national policy it is notable that the Government has not formulated ideas about 'intensity', 'the HE student', and 'employability' in isolation. National educational policies (e.g. *The Browne Review, 2010; Higher Education: Students at the Heart of the System,*

2011; *The Augar Review*, 2019) have been framed within the wider developments of globalisation in order to promote a healthy, prosperous nation within a competitive global economy (Ball, 2008). Consequently, the Government's educational policies are often influenced by other countries (Ball, *ibid.*), e.g. those in Australia (Gale and Tranter, 2011), and/or policies from supra-national regions, e.g. the European Union. It is common for nation states to globally '*transfer and borrow*' national or regional policies to the extent that many national educational policies show a remarkable similarity throughout the world (Ball, 2008, p.11). For instance, using the Bologna Declaration 1999, the European Union (EU) in its Higher Education Modernisation Agenda 2011 set '*Actions to be taken by the Commission [to] include....enabling students to make informed choices by means of a ranking tool (U-Multirank) for universities based on performance*'. This has been set in five key policy areas in order to make the EU competitive in a global economy (European Commission, 2019). This bears remarkable resemblance to England's national policies (Ball, 2008), as highlighted in this chapter. Although the significance of the impact of the EU's higher educational policies on national policies post-Brexit remains uncertain, it is likely that they will remain closely aligned to those in similar, neo-liberal nation states in the interests of remaining globally competitive.

Interrogating documents other than national policies, i.e. media accounts and an institutional prospectus provides a powerful means to investigate how hegemonic institutional discourses work upon students' sense of themselves and how they are discursively positioned as more or less valid and valuable against the white, male, middle-class, unencumbered normative student associated with elite universities (Reay et al., 2009b). This study involved an examination of policies, media accounts, and institutional texts that were in existence at the time the fieldwork. These various texts were included because they present particular narratives about enterprising, neo-liberal subjects. The research set out to explore the extent to which such messages from policy and the media permeated the everyday practices (and culture) within the Langham Institute and became absorbed and deeply embedded in the very fabric of a fast-track Law degree and shaped the views and experiences of its students. These discourses were also detected in the accounts offered by some of the Law tutors interviewed – who, in effect become '*vehicles of [bio]power*' (Foucault, 1980, p.98).

To contextualize this chapter further I argue that the objects (e.g. 'higher education' and 'fast-track' degrees) and subjects (e.g. 'students') of discourses are constructed in ways that are often contradictory, have power embedded within them, and also impact on the positioning of the individual. More specifically, I aim to unearth the plural and multiple

ways in which 'higher education'; 'fast-track degrees' and 'students' are constructed. These multiple ways generate particular '*discursive truths*' through '*persuasive fictions*' (Osgood, 2009, p.746) - to the extent that they are difficult to conceive of in any other way. For example, as a result of policy discourse, it is difficult to think in a way that deviates from entrenched common-sense ideas. That is, two-year undergraduate degrees: are intensive; offer value for money for students; and allow graduates to enter the workplace one year earlier. The common-sense ideas, I argue, are taken up (to varying degrees) by other institutions of power e.g. the media and HEIs to the extent that they represent a collective and powerful force which may be difficult to resist for the students and tutors in this study – who simply '*yield to the discourse*' (Cannella, 1999, p.38).

Common-sense ideas are problematic and potentially harmful. They can be understood through Foucault's notions of '*savoir*' and '*connaissance*' (Foucault, 1972, p.183). For Foucault, *savoir* knowledge is comprehended as a type of implied or common-sense knowledge. By contrast, *connaissance* knowledge is best understood as explicit knowledge, often encountered in an institutionalised (e.g. government, media, university) form. The significance of the difference between *savoir* and *connaissance*, for Foucault lies in how common-sense knowledge can shape explicit institutionalised forms of knowledge – which then becomes dangerously persuasive. Institutionalised forms of knowledge, informed by common-sense narratives, become problematic if the *savoir* is not unpacked, troubled and problematized. Thus, one aim of this chapter is to problematize discourses based on common-sense narratives. Foucault's distinction is also significant in that he inverts prevailing understandings of knowledge, in that it is commonly thought that explicit scientific knowledge shapes our common-sense understanding of the world; for Foucault it is the other way around. Furthermore, 'discursive truths' often constitute hegemonic discourses. For this reason, they are dangerously powerful in they are constructed and maintained to serve the interests of certain powerful groups in society and society more generally (Osgood, 2012). They also have the effect of ensuring that those who are positioned with limited power in HE (e.g. working class, mature students) will accept 'their lot' without protest (Reay, 2006).

With this in mind I undertook a Foucauldian informed discourse analysis of national (higher) education policy, media articles and the Langham Institute's prospectus (2014-15). Borrowing from both MacLure's (2003) approach to deconstructionism and the approach to policy analysis used by Taylor, Rizvi, Lingard and Henry (1997), I interrogated the texts. By asking Foucauldian-inspired questions, I have been able to

identify the discursive strategies embedded within the texts that promote common-sense ideas about HE, intensive degrees and the normative/non-normative student. I now present an analysis of the three documentary layers, with specific concern to identify discourses of intensity, discourses of consumer, investor, partners; and discourses of employability and how they function 'to fix' this group of mature, working-class students in certain ways.

Intensity discourses in policy, media and institutional documents about two-year undergraduate degrees

Intensity discourses in policy documents about two-year undergraduate degrees

BIS's (2011) policy *'Higher Education: Students at the Heart of the System'* draws upon intensity discourses to offer a particular construction of two-year undergraduate degrees. In outlining one of its aims (to make HE more competitive and capable of offering more 'choice' for students) it states that it will encourage alternative ways of delivering HE. This includes offering more fast-track degrees (at private HEIs) because: 'Some [students]want to study more intensively, compressing a three-year degree into one or two years.' (BIS, 2011, p.46). This is later echoed in Government claims that 'an accelerated course is compressed - the most common scenario being that a degree course is typically delivered in two years instead of three' (DfE, 2018, p. 6). Similarly, in BIS (2009) *'Higher Ambition: the future of universities in a knowledge economy'*, Government policy asserted that clearer information should be given to students so that they can choose how (intensively) to study. This will cater for students who want to study in a more flexible way, including 'more intensively', by shortening the duration of their course.

But why 'intensively' and 'why now'? needs to be asked of the policy texts (Taylor et al., 1997). One answer is that Government has deployed and exploited two-year undergraduate degrees, at a particular historical-political moment in Higher Education in England to further its own interests. Two-year undergraduate degrees are fictioned as 'intensive' in order to appeal to students (and others) and appear of equal worth. The political usefulness of two-year undergraduate degrees has gained currency (almost from nowhere) in England only in the last decade. It is evident that since 2009, they have been deployed politically to (potentially) lessen the financial burden placed on students due to the increase in the cost of students' tuition fees - initially to £9,000 per year. Framing two-year undergraduate degrees as 'intensive' consequently distracts from the increased financial burden placed upon students in relation to higher tuition fees.

The re-inscription of intensity discourses within Government policy (in 2011) coincided with Lord Browne's proposal to increase tuition to £9,000 per year (Browne, 2010) one year before the implementation of the policy. Persistent (re)articulation of intensity discourses (in 2018), has the effect of forcing something fictional to become 'sticky' in a bid to offer it up as a persuasive universal truth. Nonetheless, constructing two-year undergraduate degrees as 'intensive' rests on a common-sense narrative which is problematic. Does the shorter length of a fast-track degree necessarily make them intensive? As indicated in chapter two, not necessarily. Some researchers (Stockwell, 2012; Boast and Richardson, 2018), do not regard two-year undergraduate degrees as intensive. They argue that a fast-track degree is no more intense (than a standard three-year degree) given that teaching on a fast-track degree is often carried out over the traditional summer holiday.

The supposed intensity of two-year undergraduate degrees though appear to be '*hailing*' (Althusser, 1969, p.163; MacLure, 2003) a type of ideal student i.e. younger and middle-class (Burke and McManus, 2011) less likely to be doing paid work and/or have family commitments (Reay et al., 2009a). Accordingly, 'the ideal' is predisposed to meet the demands of an 'intensive' undergraduate degree – which indicates who the Government had in mind when it constructed the above policies. This is paradoxical, as most students who study on a fast-track degree are mature students (Davies et al., 2012) and also, I contend, students from working-class backgrounds. Consequently, if a working-class, mature student of Law fails to complete their two-year degree on time, they may feel a sense of deficiency rather than recognizing that their fast-track degree itself is not intended for non-normative students, a reality that is masked by a narrow construction via intensity discourses. This in turn may impact on student subjectivities, through processes of 'Othering' that contributes to a sense of being further disadvantaged in the HE market. As explored in chapter six, one student (Bob) had failed several assessment modules and was therefore unable to complete on time. Since Bob bore the burden of paid work commitments throughout his academic year - characteristic of working-class (mature) students studying at university (Reay et al., 2009a; The Paired Peers Project, 2013) it was hardly surprising that he was unable to finish within two years. Yet the intensity discourse worked on Bob in ways that reinforced his sense of be(com)ing 'Other'.

The media contributes significantly to the circulation and inculturation of particular discourses. For example, a persuasive text to assist in circulating and embedding intensity discourses connected with fast-track degrees, can be found in The Guardian (2009). An article entitled *'Fast-track degrees proposed to cut higher education costs'* outlines policy cuts to HE, proposed in *'Higher Ambitions'* in 2009. The article discusses the Government's aim of reducing the public expenditure of HE by using two-year degrees to replace traditional three-year courses. It also refers to pilot studies where several public sector universities have tested the feasibility of two-year degrees. It writes: *'In [the] pilots, terms were extended by 10 weeks each year, with a more intensive teaching timetable'* (The Guardian, 2009, para. 4).

This selected article typifies a number of media articles that construct two-year undergraduate degrees as 'intensive'. It also contributes to the debate about rising costs of HE due to widening participation policies (Fielden et al., 2010; Thornton, 2012); the value for money that fast-track degrees can offer students; and the validity of claims to 'intensity' made about two-year undergraduate degrees, all of which were mapped out in chapter two. More generally, the media article functions as a conduit (between policy and the public) through the frequent transmission of seemingly unquestionable ideas, via similar discursive messages that then become entrenched. The article encourages readers to accept, without question, that an extension of a university teaching year by ten weeks leads to an 'intensive' degree. Framing a degree as 'intensive' serves Government interests in reducing the cost of HE, since (in 2009) it had the intention of passing on increased tuition costs to students by 2012 (Browne, 2010).

When subjected to deconstruction the media text reveals itself to use a passive grammatical construction *'were extended'* to describe how the pilot study universities organised two-year degrees. This raises questions about the means by which university terms were increased by ten weeks each year leading to 'intensive' timetables. The frequent omission of textual information about the 'agents of power' is curious. Such omissions are enacted by using passive verbal structures (McGregor, 2003). This part of the text focuses on students and lecturers as relatively powerless and diverts attention from who (or what) had the power to extend terms by ten weeks. This intentional omission was designed to communicate particular messages about power relations within the academy. This resonates with ideas that power is *'net-like'* (Foucault, 1980, p.98) and that *'power is everywhere'* (Foucault, 1978, p.93). Thus, the discursive practice (inflected

in policy discourses of intensity) about how the pilot HEIs organised two-year degrees has been taken up and normalised. This normalisation filters down to university students (and tutors) and the dominant discourses about intensity, choice and economic rationality (among others) are actively re-inscribed.

Intensity discourses in an institutional document about two-year undergraduate degrees

A prevailing discourse to permeate an institutional policy of the Langham Institute (as demonstrated by both the content of its prospectus and its educational practices) is that which constructs a two-year undergraduate degree via 'intensity' discourses. The Langham Institute's prospectus claims: *'Our two-year full-time accelerated degree provides an intensive option to complete your degree quickly'*. An intensity construction is used for two-year full-time degrees to assist applicants to *'choose the right degree'* for them. This is then compared to their own three-year full-time degrees which is constructed as *'ideal'* but only *'...if you're looking for the traditional degree structure'*.

The 'intensity' of fast-track degrees is enacted and 'kept alive' as a powerful policy discourse by the Langham Institute's practices connected with the regulation of space and time. Foucault notes that disciplinary power requires a trained subject achieved *'...through [the] standardization of actions over time, and through the control of space'* (Rabinow, 1984, p.17). It is enacted in two main ways at the Langham Institute, firstly, some parts of the internal building are narrow and compressed. For example, its corridors are narrow while other parts are quite spacious but have relatively low ceilings. Drawing upon field notes made at the time, I wrote about the narrowness of its corridors and how students are contained within the building via the control of time and space:

18 February 2014: Today, between my 11am-1pm and 1-3pm Business Law classes (time), I walked along the corridor on the ground floor of the building. This was at the same time students were exiting their classes. I realised, not for the first time, that it was again very difficult to squeeze past (standardized actions) all the students - as we were all now crammed into a narrow corridor (space).

The buildings and their internal structures can be fabricated as 'a text' (Burr, 2015) since the Langham Institute's narrow corridors and low ceiling embody discursive meaning, which function to keep alive the intensity fiction of the Institute's LLB. Students (and tutors) are required to self-regulate and standardize their actions and move through some

of its spaces in a swift and efficient way, which is only made possible by a well-disciplined student body. Acquiring better time management skills could be interpreted as a benefit to students with an anticipated career in Law. Such skills are gained by navigating disciplinary technologies of space and time at the Langham Institute. However, there are discernible benefits to an institute committed to the efficient processing of fee-paying students. A well-controlled and orderly student body requires fewer resources to govern it. The unspoken rules enabled by the organization of space ensures that the Langham Institute can exert considerable power by cultivating specific skills within its student body. The emphasis on efficiency and intensity is felt through the organization of time, space and bodies; the emphasis on completing an 'intensive' Law degree on time is embedded throughout the institutional structure, culture and myriad discursive messages that routinely circulate. This sets the Langham Institute up as a viable competitor with other HEIs in the neoliberal HE market. The narrow corridors and low ceilings convey sentiments of 'intensity' that the institute defines itself by, so the architecture and organization of space come to represent the '*standardization of actions over time....through the control of space*'. The intense spaces at the Langham Institute not only act to reinforce the 'intensity' of fast-track degrees, they also function as a form of 'suffocation' for some. Chapter six presents an account from a student (Sherif) of this sense of suffocation and feeling submerged by the (disciplinary) power produced by the discourses of intensity of fast-track degrees.

Secondly, the way that the two-year LLB degree at the Langham Institute is organised on its yearly timetable is that it has three back-to-back semesters with the '*control of space*' i.e. five weeks in between. The spatial arrangement relates to time in that the degree has three semesters in each academic year, repeated over two years. 'Intensity' therefore becomes articulated through the organisation of space and time, which requires a disciplined student to exhibit self-regulatory practices as a result of being subjected to panoptic surveillance from Law tutors. The self-regulatory practices required to '*yield to the discourse*' (Cannella, 1999, p.38) include continual preparation for classes (e.g. seminars), constant reading of legal texts to acquire the required professional knowledge, and regular attendance. In chapter six one student (Michaela) demonstrates a specific form of preparedness that is highly revered at the Langham Institute. Such self-regulatory behaviour presents Michaela as a subject of disciplinary power. The persuasive fiction of 'intensity' positions some working-class, mature students as 'bright' (i.e. those who have lives that lend themselves to an 'intensive' programme) and other working-class, mature students as 'dim' (i.e. those who do not have lives consistent with the demands of an 'intensive' programme). Developing the capacities to (re)negotiate discourses are the

only hope that some students have to reclaim some sense of valid selfhood. Chapter six accounts for the important work that one student, Sherif, invested in reclaiming some power from intensity discourses as a means to reposition himself as 'bright' with important implications for his future trajectory.

During phase one of the fieldwork the Langham Institute's website made reference to the 'intensity' of its two-year Law degrees. By the time of writing though it is notable that the reference to 'intensity' has been removed. I suggest that this relies on the reader not noticing the omission, and thereby its absence can avoid interrogation (MacLure, 2003). Foucault (1978) writes that *'Where there is power, there is resistance...'* and that there *'is a plurality of resistances, each of them a special case: [even] resistances that are....solitary...'* (ibid., p.96). The current silencing of intensity on its website might be read as a form of subtle resistance to the power embedded within intensity discourses. A failure to deliver on intensity risks positioning the Langham Institute as deficient and an 'illegitimate' private sector HE provider. Therefore, the deliberate but stealthy removal of the term 'intensity' does important work and can be read as an intentional attempt to reposition itself as a credible and legitimate HE provider of Law degrees.

The way that the Langham Institute presents fast-track degrees in its prospectus (i.e. as a *'subjected...practiced...“docile” bod[y]'* (Foucault, 1984, p.182) draws upon a powerful governmental policy discourse of the 'intensity' of two-year undergraduate degrees. Simultaneously though it appears to resist the same discourse (via silence and omission) on the current version of its website. The omission underscores HE as a site of power that has shifted (and continues to change) over the past six years. This directly relates to debates set out in chapter two about the fluidity of intensity discourses 'the student experience', and an ever-moving landscape of priorities generally within HE (e.g. a shift from student(s) as consumer to partner) that the Langham Institute must effectively negotiate if it is to maintain its place within the HE market.

Discourses of student(s) as consumer, investor, partner in policy, media and institutional documents about fast-track degrees, HE and HE students

Discourses of student(s) as consumer/investor/partner in policy and media documents about fast-track degrees

Two-year undergraduate degrees are constructed via neoliberal consumerist discourses within Government policy. In particular, it appears that the main purpose of a fast-track degree is to enhance student-consumer choice:

As well as informing where and what students choose to study, better information will help them make choices about how they choose to study. For some this will be a traditional three or four-year fulltime undergraduate degree. For others, it will be through flexible options: a two-year accelerated degree (BIS, 2016, p.14).

This is aligned to consumerist discourses observed within ‘*Higher Education: Students at the Heart of the System*’ (BIS, 2011). Here fast-track degrees are similarly constructed as facilitating student choice and diversity of HE by reducing ‘*regulatory barriers*’ to ‘*improve student choice by supporting a more diverse sector, with more opportunities for part-time or accelerated courses*’ (ibid., p.5).

As highlighted in chapter two, offering students a choice of two-year undergraduate degrees is often understood to take place within the context of a consumer driven, flexible model of delivery (Thornton, 2012). But what consumerist discourses in Government policy mask are that for some students (e.g. working-class, mature, BME students) choosing a fast-track degree is not a genuine choice. Politically, there is no ‘choice’ if a student is marked by class, age and ‘race’ intersectionalities. Working class, mature, BME students have no real choice in how (and where or what) they study at HE. They are located predominately at the lower end of the university hierarchy (Archer and Huthchings, 2000; Leathwood and O’Connell, 2003; Reay et al., 2009b; Martin, 2012; Burke et al., 2017) and tend to study for vocational degrees (Archer et al., 2003; Lehmann, 2009; Burke et al., 2017) – which as outlined in chapter two, have a lower status. Hence, a working-class mature student who attends a private HEI is more likely to study for a degree on a fast-track basis and/or in a vocational subject area, such as Law (Lehmann, 2009). Consumerist discourses promote the notion of student choice but in fact have the effect of disadvantaging non-traditional students further since their

choices are constrained by structural inequalities.

As a '*vehicle of power*' (Foucault, 1980, p.98), the media appears to continue with the persuasive fiction of consumerism. For example, in 2017, the BBC reported that fast-track degrees save students money:

Students in England are going to be offered degrees in two years with a £5,500 saving in tuition fees... Undergraduate courses will be condensed into 'accelerated' degrees, with fees 20% less than a three-year course (BBC, 2017, para. 1-2).

This resonates with another media text written several years earlier; The Guardian (2010, para. 1) reported on Vince Cable's first speech (as business secretary) on higher education. It claimed: '*Vince Cable came up with lots of handy money-saving ideas...last month. Two-year degrees was one [of them]*'.

Taking the media accounts apart with reference to '*poetics and the politics*' (MacLure, 2003, p.82) reveal the inherently consumerist discourses that are deeply embedded within the articles. What is noticeably foregrounded is the use of a poetic 'acceleration' metaphor connected with the duration of two-year undergraduate degrees. Whilst persuasive, the promise of accelerated study is deeply problematic and inherently political. The reality of completing a two-year degree on time for non-traditional students is (in most cases) mythical. The demands of paid work and/or care commitments mean that an accelerated mode of study is untenable. Chapter seven reports the experiences of a student ('Bob') who talks about his Law degree in consumerist, value for money terms. But this consumer advantage is lost when Bob fails to complete within two years. The almost inevitable need to extend accelerated studies by a year actively depletes a sense of having received 'value for money'.

Discourses of student(s) as consumer/investor/partner in an institutional document about fast-track degrees

The Langham Institute draws upon neo-liberal discourses to construct its two-year undergraduate degrees in ways that promote choice and success. It states:

Our expert advisors will guide you to achieve the career of your choice... Graduates have secured positions as lawyers, barristers and chartered legal executives, clerks and work in the police force.

Consumerist discourses weave through employability discourses in the expression 'achieve the career of your choice'. In effect, students are being sold both choice and success via such statements but the harsh realities for working-class mature students contemplating entry to an elitist legal profession inherently shaped by social class, age, race and gender asymmetries and injustices are entirely obscured from view (Sommerlad et al., 2010; Ashley, 2011; Tomlinson et al., 2013; Tomlinson et al., 2019).

There is no evidence in their text to suggest that graduates 'secured positions' as 'solicitors'. Instead, the term 'lawyers' is used, which is so generic it is almost meaningless. This silence implies that the Langham Institute is actively resisting or subverting employability discourses as they directly connect to the legal profession. Another reading is that the gap exists because the Langham Institute is aware that most non-traditional students find it more difficult compared to their privileged counterparts to secure positions as (trainee) solicitors (Ashley, 2010; LETR, 2013). 'The career of your choice' is inherently disingenuous and does little more than signify a neoliberal hegemonic fabrication. Non-traditional students drawing upon a similar set of discourses (which student Magda does, in chapter eight) are momentarily positioned as relatively powerless choice-makers. The discourses tend to work on non-traditional students in ways that raise awareness that employability 'choices' are mythical and in fact determined by structural inequalities.

Discourses of student(s) as consumer/investor/partner in policy documents about higher education

In a similar way to how fast-track degrees are fashioned, English universities are constructed overwhelmingly as a neoliberal subject (Webb, 2015) in Government policy. For example, 'The Future of HE' (DfES, 2003, p.3) states that the Government intends to give '...universities the freedoms and resources to compete...'. Likewise, in 'Success as a Knowledge Economy: Teaching Excellence, Social Mobility & Student Choice', it claims that:

By introducing more competition and informed choice into higher education, we will deliver better outcomes and value for

students...Competition between providers in any market incentivizes them to raise their game, offering consumers a greater choice of more innovative and better-quality products and services at a lower cost (BIS, 2016, p.8).

The use of a common-sense (*'savoir'*) narrative about the need for more competition is so entrenched and reasonable as a policy directive that it makes both texts persuasive and believable. Yet, it is so taken for granted in the text that its impact is almost invisible. The 2016 policy articulates (as a form of *'connaissance'*) that underperforming public sector universities need 'fixing' (via market forces) and are required to raise *'their game'*. Implied within this is that they will raise their teaching standards when universities are subjected to more competition from private HE providers (with DAPs and university status) – evidenced by the TEF scores deployed to judge and observe HEIs further.

HEIs become panoptically self-regulating via TEF compliance. As set out in chapter three, Foucault (1977) recognized the similarity between HEIs and prisons when rhetorically asking: *'Is it surprising that prisons resemble factories, schools, barracks, hospitals, which all resemble prisons?'* (ibid., p.30). The elite HEIs are predisposed to become readily TEF-compliant and the newer HEIs are less likely to perform to the regime. Marked out with a low TEF score, a newer HEI will reinforce disadvantage for non-traditional students who tend to study at lower status universities. Consequently, the HE policies that construct HEIs as neoliberal subjects have the (un)intended consequences of governing/controlling HEIs and (in turn) its students. One further consequence is in relation to *misrecognition* (Fraser, 1997; Burke et al., 2017) or deploying a Foucauldian concept (mis)*'connaissance'* as Lumb and Burke (2019) do. This is discussed in more detail in chapter seven.

The common-sense narrative of a marketised (higher) education system is damaging because powerful groups (of universities) further their interests at the expense of marginalized ones (Sommerlad et al., 2015). The HE system is hierarchical in relation to *'history, resources, academic provision, status, and the make-up of the student body'* (Leathwood, 2004, p.34). Since elite universities have all these privileges in abundance, a culture of competition is more deeply embedded within HE policies and practices and therefore positional (dis)advantage is reproduced for each group of HEI. Thus, the Othered status of a new university/private HEI is amplified and becomes solidified as a result of neoliberal policy and related discourses. Given that non-traditional students generally attend new universities and private HEIs (Leathwood, 2004) this in turn impacts

on the subjectivities of non-traditional students in that they are positioned as the Othered, attending an Othered HEI – where their ‘voices’ and ‘choices’ are limited (Leathwood and Hayton, 2002).

Discourses of student(s) as consumer/investor/partner in media and institutional documents about Higher Education

Media accounts also construct English universities as neoliberal subjects. In particular HE is constructed as an individual ‘investment’. For example, in outlining a freedom of information-generated story on the size of student debts owed to the Student Loan Company, the BBC (2011, para. 16-17) claimed that *‘Students should not be put off by the headlines....the monthly repayments are manageable’* and *‘going to university is an investment’*. Similarly, eight years later, the BBC (2019) reported on an item to counter claims that there were too many graduates in OECD nations, by using a headline *‘University still good value for future earnings’*. As a *‘vehicle of power’* (Foucault, 1980, p. 98), the Langham Institute appears to continue with this persuasive neoliberal fiction. In its prospectus it writes: *‘The decision to do a degree involves investing both time and money in your future – but the return you can expect is a brighter future and better prospects’*. The implication within these selected texts is that HE is an investment vehicle and regardless of the cost of a university degree, a student is guaranteed a good return on their investments of both time and money. The return is commonly imagined as future earnings. This is unsurprising since neoliberalism is associated with individualism, the market, employability and the economisation of (higher) education.

But what makes the texts persuasive, common sense and reasonable is that they possess the *‘a scent of an institution’* (MacLure, 2003, p.82). So, it is unsurprising that participants in chapter seven align with this neoliberal discourse when framing HE as an investment. The institutional scent pervading the texts presents the university sector as equivalent to the (capitalist) banking system. As a result, university qualifications are (re)imagined as comparable to investment products (e.g. ISA mortgages) often purchased from a bank, or other financial service provider. But, while the banking system serves an important financial role in any nation, it typically represents the private sector. Hence, when the private sector is looked to, and borrowed from, for public sector services (e.g. higher education), it becomes distorted. Many of the values that the private sector exhibit indicate that it functions with compromised integrity and with questionable standards (Ball, 2005). Looking to global banks in relation to ‘the credit crunch’ (in 2008)

and more recently (in 2016) with Deutsche Bank involved in price fixing revealed many to have low standards of ethics and responsibilities to investors.

Related to this, all investments require an investor to take some risk in not receiving any return. Transposing this model to HE means that investors (i.e. students) are in the game of making calculated risks on their investment (i.e. degree). But the HE investment market is not a level playing field. Chapter two highlighted research that shows working-class students are more risk averse than middle-class ones (Archer and Hutchings, 2000; Clayton et al., 2009; Devas, 2011) perhaps precisely because they have the most to lose. This has been supported, more recently, by assertions that a major reason for a decline in part-time students (since 2012) is that they tend to be mature. Such students tend to possess larger amounts of mortgage-debt and are more risk averse when contemplating further loans for HE study (Callender and Thompson, 2018). Consequently, the construction of HE as a neoliberal investment-vehicle is fraught with tensions and injustices which disproportionately disadvantages non-traditional students.

Discourses of student(s) as consumer/investor/partner in policy documents about HE students

University students are constructed overwhelmingly as neoliberal (enterprising) subjects within Government policy (Osgood, 2012). One dominant discourse to pervade national policy is that which constructs a university student via a 'student as consumer' fabrication. Arguably, some of the features pertaining to consumers are that (following the purchase of a chosen commodity, in this case higher education) they are encouraged to give feedback so that the product/service can be improved upon (Brooks, Byford and Sela, 2016). Consumers are also given certain rights (often via charters) and when those rights are breached, they are entitled to complain and/or seek a remedy (ibid.). This construction of student as consumer appears in the Government's white paper: '*Students at the Heart of the System*'. It reads: '*Student charters and student feedback will take on a new importance to empower students whilst at university*' to complain ultimately to the OIA¹² (BIS, 2011, p.6).

The construction of a university student via consumerist discourses appears inconsistent within and across Government policies. The inconsistency exposes the multiple ways in which Government constructs university students. Chapter three draws upon Foucault

¹² The Office of the Independent Adjudicator

(1979) to contend that the social world is more complex than mere binary discourses can allow for. Instead, it should be seen as a fluid constellation of '*discursive elements*' that come together with various aims. Foucault (1979, p.100) writes:

We must not imagine a world of discourse divided between accepted discourse and excluded discourse, or between the dominant discourse and the dominated one; but as a multiplicity of discursive elements that can come into play in various strategies.

In 2009, within the same Government policy, university students are inconsistently constructed. On the one hand, as 'students as partner' whilst on the other as a 'student as consumer'. In outlining how it aims to enhance 'the student experience', the Government (BIS, 2009) claims that it will encourage students to have a say in how their own learning experience can be enhanced. Using a case study by way of example, the policy states:

Students as agents of change in learning and teaching – The University of Exeter has developed an innovative and exciting student-led action research project which brings students and staff together as partners in higher education (BIS, 2009, p.76).

Paradoxically, within the same text, students are further (re)imagined as investors because more '*information should help students choose courses that offer the greatest returns in terms of graduate opportunity.*' (BIS, 2009, p.13). Similarly, in the Browne review it states: '*For all students, studying for a degree will be a risk-free activity. The return to graduates for studying will be on average around 400%*' (Browne, 2010, p.3).

It is possible that this contradiction exists because different constructions serve different political aims. The various constructions are little more than part of an assemblage of '*fictions functioning in truth*' (Walkerdine, 1990, p.157) that attempt to justify the Government's agendas. One agenda is that students need to pay (more) for their own higher education 'product' in order for the Government to be able to '*deliver savings to help address the large Budget deficit*' (BIS, 2011, p.2). Likewise, constructing students as 'consumer/investor' and 'partner' promotes an expectation that students can be persuaded to take out any grievance(s) about their degree studies directly with their HEI – and, not the Government. By localising the relations of power, students as consumer/investor/partner are entitled to, and have rights to declare their dissatisfaction.

As a form of (mis)*connaissance* (Lumb and Burke, 2019), students are expected to pursue their objections with their service provider/other contracting party. Thus, these various hegemonic constructions of the contemporary HE student serve the interests of the state rather than students and/or HEIs.

Furthermore, constructions of student(s) as consumer, investor or partner imply that *all* students are equally able or inclined to embrace and perform these forms of studentship. As previous research has demonstrated (Reay et al., 2005; Reay, 2016; Abrahams, 2017) certain students, on account of their privilege and cultural, educational and social capital, are always better placed to 'be' and 'do' these idealised forms of student. In Foucauldian terms, the constructions mask the situation that students who are in positions of power and privilege (e.g. white, middle-class students) are prone to know their rights and/or be supported by knowing and powerful networks (Ball, 2005). By contrast, those who are positioned with less power (e.g. BME, female, working-class, mature students) are less likely to 'be/do' consumer, investor or partner. This may explain the reasons some students (in this study) embodied and performed according to the contemporary trope of consumers, investors or partners while others did not (see chapter seven for full discussion). The ways in which students negotiate, resist or embody particular discursive constructions set out in government policy, and re-inscribed through localised institutional practices, offer interesting and troubling insights into contemporary HE. Ball (1990b) deftly articulates the ways in which discourses operate (to disadvantage the already disadvantaged) which is pertinent to this study and explored further in chapters six to eight. For Ball, they are about:

...what can be said and thought, but also about who can speak, when, and with what authority. Discourses embody meaning and social relationships; they constitute both subjectivity and power relations (Ball, 1990b, p.2).

Discourses of student(s) as consumer/investor/partner in media texts about HE students

As recognised by Foucault (1984) the media is an incredibly powerful mediator and means of promoting certain persuasive fictions. A review of media accounts of contemporary HE reveals that university students are overwhelmingly constructed as 'consumers'. For example, The Telegraph (2009, para. 3) claimed that '*Students are now consumers of the higher education experience*'. More recently, the same broadsheet reinforced this fabrication by repeating the same narrative, with a headline: '*Students*

must think and act like consumers' (The Telegraph, 2019). Yet, in terms of whose voices are silenced in the construction, it is noticeable that the voices of HEI tutors are absent from debates. This is perhaps unsurprising given that the construction has the potential to discursively place greater power with the student and so compromise the academic freedom of lecturers (Laing and Laing, 2016). Academics become disciplined by regimes of truth, particularly around student rights and satisfaction as consumer. Consequently, in Foucauldian terms, the absence of tutor voice in media constructions reinforces academic resistance to it, although this resistance may be in the form of silence or denial (see chapter seven for further elaboration on this). Despite resistance to government and media constructions of the contemporary HE students they nevertheless can sometimes work to (unintentionally) position students as powerless subjects operating with limited agency. Some of these tensions and ambiguities are addressed fully in chapter seven.

The Telegraph is inconsistent in its claims that students are, or should be, encountered as consumers in a higher education market. In more recent coverage journalists offer a counter-discourse whereby students are re-configured from consumer to learner. A headline states: *'Students are learners, not consumers. Students need to remain conscious of their role as a learner, not just a recipient of a service in return for cash'* (The Telegraph, 2014). The 'student as learner' counter-discourse can be viewed through Foucault's inverted analysis of power. As noted in chapter three Foucault (1984) asserts that power is not solely repressive in the way that it prevents us from doing things. It also needs to be comprehended in a positive light, since power also produces counter-discourses. Hence, the 'student as consumer' discourse has the power to generate a counter-discourse that frames students very differently. By offering an account of student as learner some of the problematic positioning that student as consumer produces has the potential to come undone. This construction of the student is more aligned to traditional accounts of education (as outlined in chapter two). And so, this offers students (and lecturers) opportunities to work free from the constraints of neo-liberal constructions that see them bound up in contractual relations that depend on consumerist concerns for satisfaction and desirable outputs that will translate into employability and national economic prosperity. Student as learner is a familiar construction but one that has become lost in contemporary accounts of 'the student experience' (Hubbell, 2015). The possibilities to reclaim this notion of a student holds the potential for both student and academic to push back against the consumerist tide.

Meanwhile, a search for 'students as partner' within media accounts of higher education yielded few results. There appears to be a curious discursive silence within media narratives, which given how prevalent the partnership discourse is within policies (both government and institutional) presents an interesting conundrum. The omission can be understood as a form of institutional (bio)resistance. The resistance is contra to the (bio)power embedded within consumerist framings by the media to the extent that the resistance impacts on how academics tend to construct their own students. This was a finding from this study (see chapter seven) - where Law lecturers at the Langham Institute typically resisted the construction of student as 'partner'.

Discourses of student(s) as consumer, investor, partner in an institutional document about HE students (including Law students)

Aligned to national policies, students are typically constructed as neoliberal (enterprising) subjects in the Langham Institute's prospectus. It contains a page entitled '*Choosing the right degree for you*'. The use of the word 'choosing' acts as a rhetorical device designed to persuade its readers (i.e. potential students) that various options exist when choosing the right degree. However, it is noticeable that the heading has nominalised 'choice' by converting 'to choose' into 'choosing'. Potential students are, therefore, positioned as agentless consumers in this process, because information about the agents of power is absent. It raises the questions: who does the choosing of the right degree for students – the Langham Institute or the student themselves? The use of the word 'you' (as opposed to 'me') at the end of the heading, suggests that the Langham Institute will be choosing the 'right degree' for the student – or perhaps the 'right student' for their degree. The prospectus also contains a page entitled '*LLB (Hons) Law*'. In outlining why a prospective student should choose its Law degree, it writes that students:

...will be taught by first-rate teaching staff who bring their years of academic and legal experience into their teaching, enabling you to gather an in-depth understanding of today's legal profession.

The Law teaching staff is noticeably constructed as possessing 'first-rate' teaching standards because they have years of experience whether it is from academia and/or legal practice. The Law tutors are positioned as all-powerful agents of legal knowledge because the implication is that the Law staff will be able to regulate the students' depth of '*understanding of today's legal profession*'. Teaching is privileged and learning is silenced. It suggests, then, that Law teaching is something that will be done to students.

Consequently, the Langham Institute discursively positions the Law student body as relatively powerless and positions them as agentless repositories of legal knowledge. This has the effect of reinforcing the 'student as consumer' discourses and subverting the national policy constructions of 'students as partner'. Moreover, the text illuminates Foucault's (1978, p.100) ideas when he writes '*... it is in discourse that power and knowledge are joined together*' in that that power and knowledge 'dance' together to form a circulating partnership when a discursive melodic fiction is played. Perhaps it is therefore unsurprising that tutors referred to their Law students as consumerist, neo-liberal subjects and denied the possibilities that they are or should be viewed as 'partners'.

Employability discourses in policy, media and institutional documents about fast-track degrees, HE and HE students

Employability discourses in policy documents about fast-track degrees

In 2009, the Government's policy '*Higher Ambition: the future of universities in a knowledge economy*' draws upon employability discourses (by stating that it plans to expand '*vocational*' qualifications) and draws upon neoliberal consumerist discourses to declare a commitment to '*widen opportunities for flexible study*'. As documented earlier in this chapter, one of the hallmarks of a neoliberal consumer driven HE system is a flexible mode of delivering courses (Thornton, 2012). It writes:

We will expand new types of higher education programmes that widen opportunities for flexible study for young people...[by encouraging] the further expansion of ... a vocational qualification completed in two years... (BIS, 2009, p.11).

The policy text seems to be '*hailing*' (Althusser, 1969; MacLure, 2003) younger students. Nonetheless, this is problematic as the majority of fast-track students are mature (Wlodkowski, 2003; McCaig et al., 2007; Outram, 2009; Davies et al., 2012; Huxley et al., 2017). It also seems to be '*hailing*' working-class students. As sketched out in chapter two, research (Lehmann, 2009) shows that most vocational pathways are studied by 'non-traditional' students and often at new universities.

Ten years later, very little has changed. For example, in the '*Government response to the education select committee report: value for money in higher education*' (DfE, 2019c, p.10), it claims that:

...the ability to start or return to work one year faster than their standard degree peers as the most significant factor, with financial savings (in tuition fee loans and living costs) and their general academic experience

are the principal benefits for students studying on a two-year undergraduate degree. The same employability discourses ('*start or return to work one year faster*') joined with neoliberal consumerist ones ('*financial savings*') are once again circulated. For that reason, where a Law student in this study draws upon discourses of employability with neoliberalism, they become positioned as a relatively powerless neoliberal subject. These discourses also function on students as a form of (mis)*connaissance* (Lumb and Burke, 2019), following Foucault. In particular, the '*ability to start or return to work one year faster*' is dictated more by structural inequalities i.e. that the legal profession is inherently classed, gendered and raced and so serves to privilege the already privileged and disadvantage the already disadvantaged (Tomlinson et al., 2013; Tomlinson et al., 2019) rather than by virtue of '*a vocational qualification completed in two years*'. It thus operates as a form of hegemony for working-class mature students, which will exaggerate disadvantage for them. A tension arises, therefore, within and across the two policy texts. This is unsurprising given that, and as noted in chapter two, neoliberalism ignores structural explanations for the social inequalities and instead tends to blame individuals for their failure to flourish (Giroux, 2013). So, in this case, the structural inequalities facing mature, working-class students studying a truncated degree at a private university are obscured by the prevailing discourses of intensity and employability (among others) that attribute success to the enterprising neo-liberal subject in the HE market.

Employability discourses in media texts about fast-track degrees

Reporting on the introduction of fast-track degrees at Staffordshire university, a BBC article (BBC, 2006) draws upon a brief life-history of a mature student (Helen Wallace, white, working-class, 40, married with four children). After having worked as a nurse manager for a number of years, Helen's 'story' is that she has recently decided to study for a Geography degree to qualify as a teacher. The BBC (2006, para. 29) reports that Helen considers: '*a year saved while qualifying meant an extra year's employability*' – which is important for Helen in choosing to do a fast-track degree. Whilst the text is persuasive and authoritative in its '*bid for believability*' (MacLure, 2003, p.82) - by deploying qualitative data and citing the authentic words of Helen Wallace it also raises

a set of troubling questions. The BBC's message obviously echoes Government policy (and the research literature in chapter two) in that fast-track undergraduate degrees are fictionalised as assisting employability by establishing graduates into the workplace one year earlier (BBC, 2006). But even though the teaching profession is less elitist compared with the legal profession (Kirby, 2015; Kirby, 2016), it is still mediated by class, 'race', gender and age. The text, as a consequence, reinforces a form of hegemony for working-class mature students, which amplifies disadvantage.

More recently, the BBC wrote about some of the other benefits to students in studying a fast-track undergraduate degree. It states: '*A shorter time in university would allow students to....repay their loan debts*' earlier because they can enter the workplace sooner (BBC, 2017, para. 18). Repaying a student loan earlier, however, draws upon a common-sense narrative which ignores the fact that not all working graduates will be able to pay back loans sooner (or at all) - given that there is a classed, aged, raced and gendered pay gap in the UK (Reid, 1998; Ostroff and Atwater, 2003; Laurison and Friedman, 2016; Kato and Kodama, 2017; Friedman and Laurison, 2019). Thus, the narrative offers a fabrication and is ultimately designed to persuade non-traditional students of the merits of alternative approaches to studying degrees, whilst obscuring the realities and broader structural inequalities that they are likely to face in the job market and workplace.

Employability discourses in an institutional document about fast-track (Law) degrees

Aligned to national policies and media texts, 'a-fast-track-degree-makes-you-more-employable' mantra is also detectable in the Langham Institute's prospectus. Accordingly, the Langham Institute appears to be a carrier of power. As a '*vehicle of power*' (Foucault, 1980, p.98), it reinforces notions of employability and success. Its prospectus highlights the benefits to current and prospective students in studying Law on a fast-track basis at a private sector HEI. In particular, the benefits to undergraduates are: '*so you can graduate with the right skills, and be working in the business world, earning a salary and getting a head start on your career, a whole twelve months earlier than your contemporaries*'.

Despite this rhetoric there was little evidence of a heightened emphasis on employability within the practices and provision extended by the Langham Institute to its students. There appeared to be very few employability-related opportunities and dedicated activities available to students. From informal observations, and from the qualitative data collected from staff and students, it was unclear why this was the case. The lack of career-

related activities for Law students at the Institute (juxtaposed the rhetoric within its prospectus and on its website) sent out mixed messages. The students reported a culture of confusion at the Langham Institute which meant that the cultivation of an 'employable self' would have to be deferred until after graduation, thereby negating the discursive 'head start' over their contemporaries that they had been promised at the outset. This inequality is explored more fully in chapter eight, specifically through an account offered by Sherif, a mature, working-class student prevented from undertaking legal work experience until after he had graduated.

Employability discourses in policy documents about HE

Readers of Government policy are led to believe that going to university particularly in the UK, will improve (global) job prospects because UK universities are '*world class*'. For example, in '*Success as a Knowledge Economy: Teaching Excellence, Social Mobility & Student Choice*', universities in this country are claimed to have '*...a world-class reputation, with globally renowned teaching...*' (BIS, 2016, p.7).

Although, this construction appears contradictory when later in the same policy document, the rationale underpinning the introduction of the Teaching Excellence Framework (TEF) given is to '*drive up the standard of teaching in all universities*' (BIS, 2016, p.13). This directly challenges the previous claims that UK universities are '*world-class...with globally renowned teaching*' if standards need to be improved but a preoccupation with raising standards in the 2016 policy is not new. It pervaded new Labour's policy - *Higher Ambition*, when it stated that it would '*...promote excellent teaching for all students in higher education...*' (BIS, 2009, p.17). Similarly, it pervaded the 2016 Conservative Government's policy suggested by its title: '*Educational Excellence Everywhere*' (DfE, 2016). Repeated policy discourses preoccupied with raising standards are somewhat predictable since they typically constitute a continuation of the previous Government's policies (Leathwood and Hayton, 2002) – which continue to place students in a competitive marketplace where their 'voices' and 'choices' are limited.

Discourses of raising standards can be further problematized, particularly when considered in relation to the preoccupation to achieve 'excellence' (as captured in the title of the DfE policy). Excellence by its very definition is a hierarchical and relational construct and relies upon some educational providers being less than excellent; in effect the pursuit of universal excellence becomes a nonsense. The claims to '*world-class*'

education that can assure employability by constantly improving standards to achieve teaching 'excellence' all work to produce a particularly (persuasive) fiction. The overseas students included in this study were seduced by claims that attending a UK university would improve (global) employability yet like the other (home) students in this study they were actively negotiating these multiple, often contradictory discourses and ultimately questioning what these discursive fictions meant for them as non-traditional students (which is explored more fully in chapters six to eight).

The contemporary construction of HE within policy documents gives off a scent of British colonialism. Whilst appealing to international students it nevertheless works at 'Othering' (Said, 1978) overseas students. As Edward Said (ibid., p.221) claims:

The Orient to [the British] was no sudden discovery, no mere historical accident, but an area to the east of Europe whose principal worth was uniformly defined in terms of Europe – European science, scholarship, understanding and administration – the credit for having made the Orient what it was now.

Where overseas students in this study draw upon multiple discourses that contribute to a particular discursive account of world-class university education in the UK, to make sense of his/her Law degree, the Othering to which Said refers is acutely felt. This is because the student's 'principal worth' is 'defined' by a Law degree from the UK - thereby acquiring 'worthwhile' legal 'scholarship' and 'understanding'. For working-class, mature students (already doubly Othered by studying a fast-track undergraduate degree at the Langham Institute), this will further disadvantage them. Chapter eight provides the example of Rahin (from Trinidad, self-identified as Indian) who talked about his Law degree with a definitive 'salute' to the HE system in England.

Employability discourses in media texts and an institutional document about (private) HE

The common-sense and reasonable narrative that appears to pervade the employability discourses in the media (and in the Langham Institute's prospectus) is that private HE makes students (including Law students) more employable. This is because private HE tends to concentrate on vocational degrees. Vocational degrees are more suitable for students to study because they are relevant to the 'modern workplace'. The Telegraph (2012, para. 6) writes:

The College of Law's two-year LLB demonstrates another advantage of specialised private universities: the course is professional in its outlook and geared to the realities of the workplace.

More recently, The Telegraph (2017, para. 9) similarly wrote that: '*Alternative providers are here to stay in the higher education world.... most will focus on the vocational and technical subjects...regarded as essential for entry into the modern workplace*'. Predictably, the same narrative is rehearsed in the Langham Institute's prospectus, when it states:

Degrees with a career focus – the Langham Institute is committed to developing the employability of our students by providing them with the key skills and knowledge they need to succeed in the competitive corporate world.

Nevertheless, the employability discourses rest upon two binary oppositions which structure the texts: private versus public-sector HE; and the vocational/academic divide, both of which were discussed in chapter two. But it is not unusual for a text to contain binary oppositions to provide structure, where one half of the binary is valorised and the other is demonized (MacLure, 2003). This is often in an arbitrary way that leads to contradictions and tensions arising within the discursive structure (Levi-Strauss, 1970). Accordingly, Foucauldian-informed discourse analysis prompts the identification of binary oppositions with the aim of highlighting contradictions, which underpin the writing.

Skills for '*the realities of the workplace*' are valorised and, by its relative silence '*knowledge...to succeed*' is denigrated. Similarly, '*specialised private universities*' are valued and by implication public HEIs are demonised. Interestingly, both divisions act as a counter-discourse to the academic/vocational divide and to the hierarchy of university discourses that shape our thinking about HE – mapped out in chapter two. Theoretically, this can be interpreted as a form of institutional resistance, via counter-discourses, to the power embedded within the discursive binaries that value knowledge (for its own sake) and public sector HEIs.

Yet, skills for '*the realities of the workplace*' can be problematized in that the reality of the workplace (like the academy) is that it is an unequal site of power. So, when applied to Law students in this study, the emphasis on acquiring legal skills at the Langham Institute fails to acknowledge that the legal profession is elitist and socially exclusive. The legal

workplace is classed, aged, raced and gendered (Sommerlad et al., 2010; Ashley, 2011; Tomlinson et al., 2013; Tomlinson et al., 2019). I argue, therefore, employability discourses that valorise skills and '*specialised private universities*' are tainted with hegemony.

Employability discourses in policy documents about HE students

Chapter three set out how discourses produce implied (direct and indirect) effects. An implied (direct) effect of employability policy discourses for non-traditional students is that they are discursively positioned as deficient and lacking. Increasing the level of employability among undergraduates was a central Government aim in '*Higher Ambition: the future of universities in a knowledge economy*'. It states (BIS, 2009, p.40):

Raising the level of employability of our graduates by ensuring they have the important generic skills in team-working, reasoning and communicating that are required for many modern careers.

More recently this Government's policy fabrication is rehearsed again. For example, in '*Success as a Knowledge Economy: Teaching Excellence, Social Mobility & Student Choice*', it states: '*we will not truly begin to reduce inequality unless more students fulfil their aspirations and progress on into their chosen careers*' (BIS, 2016, p.13).

In particular, '*raising the level of employability of our graduates*' and aiming for '*more students [to] fulfil their aspirations*' positions students as apprentices with limited skills and employment prospects. Further, the '*raising aspirations*' policy discourse (like employability) positions working class students and their families as lacking and so pathologizes them as deficit (Perry and Francis, 2010). What it fails to recognise are the wider, more nuanced, structural reasons working-class students do less well educationally. This failure to recognise wider structural explanations means that efforts to increase the employment prospects of working-class students are unlikely to work (ibid.).

Given that the wider political-economy and other policy developments have shaped employability discourses, it is unsurprising that the employability narrative maintains that an individual, non-traditional student is lacking if s/he is unable to '*progress on into their chosen careers*'. Moreover, when Government draws upon employability discourses their power rests on an economic rationality argument which has the effect of distorting

'matters of inequality, power and the ethical grammars of suffering' (Giroux, 2013, p.2). This is perhaps inevitable since employability, as a form of individual responsibility, is characteristic of any neo-liberal university and society (Ainley and Canaan, 2005; Giroux, 2013). Hence, in order for non-traditional students to be successful in obtaining employment in *'many modern careers'*, they require *'fixing'* to become more *'normative'*. *Employability discourses in media texts and an institutional document about HE students (including Law students)*

As a *'vehicle of power'*, employability discourses are rehearsed by the media to the extent that they continue to be persuasive and believable. For example, in relation to a Law degree, the Guardian newspaper wrote as a sub-headline: *'It is possible to get a job in other industries if you decide that Law isn't for you, so stick with your degree'* (The Guardian, 2014). More recently, the same newspaper wrote an article about Law degrees entitled: *'Career pressure starts early for Law students – here's how to cope'*. What is drawn upon is a brief autobiography of a female Law graduate (Eve Cornwell, white, female, early 20s) from Bristol University wanting to qualify as a solicitor. The Guardian (2019, para. 6) reports Eve's advice and this includes:

Gaining a career focus – meaning actively exploring your options and having conversations about the future. Where do you see yourself in two, five or ten years' time? I still find this to be quite a unique pressure put on Law students – it's not uncommon for first years to be offered training contracts.

In this way, the media keeps active a *persuasive fiction* about employability and its direct correlation to Law as a subject discipline. Readers (including Law students) are led to believe that reading for a Law degree will necessarily make a student more employable. This is because either it will lead to a training contract or, if not, will give students *'choices'* in the job market.

Eve Cornwell is presented as a *'typical'* Law student from a red-brick university (in terms of her classed, *'raced'* and aged subjectivities). Consequently, she is liable to obtain a job in the legal profession regardless of her level of employability. In fact, The Paired Peers Project (2013) reported on this when it compared (among others) Law students from Bristol University with Law students from the University of the West of England. Middle-class students from Bristol University were found to be more inclined to do unpaid internships because they were less likely to be doing paid work and/or constrained by

caring commitments during the academic year. Their internships allowed them to gain work experience more readily and generate contacts during their degrees. Indeed, Eve Cornwell is now a well-known serial You-Tube vlogger. Accordingly, the public now knows that she made the transition from Bristol Law school to working (as a trainee solicitor) for an elite London Law firm with relative ease. Thus, Eve's 'choices' in the legal job market are very different from the 'choices' of those students which are the focus of this study.

The Langham Institute's prospectus is framed by both neoliberalism and its pronounced concern for employability. It claims that there is free choice in the job market because graduating with a Law degree from the Langham Institute enhances options and hence employability. It writes: '*Graduating with this [Law] degree will significantly enhance your career potential, in and outside the legal profession*'. These discourses and the messages inherent within them are taken up by some students in this study in unproblematic ways. For example, in chapter eight, Magda recounts the ways in which she has invested in a neo-liberal subjectivity which is in large part defined by the extent to which she will become employable through her chosen degree. Her acceptance of and investment in these twin discourses works to (unwittingly) position her as a relatively powerless choice-maker, with limited career options due to structural inequalities that have been obscured from view. She is so deeply invested in her own personal success that the classed, gendered and raced nature of the legal profession goes largely unnoticed and her ultimate failure to realise her career ambitions are attributed to personal failing rather than systemic and structural barriers (Tomlinson et al., 2013; Tomlinson et al., 2019) Ultimately, this form of discursive hegemony for non-traditional students exaggerates the disadvantage they persistently encounter.

Conclusion

In conclusion, this chapter has uncovered considerable alignment as well as multiple tensions and contradictions between and within three layers of textual accounts of HE (government policy, media coverage, and an institutional prospectus). The preceding chapters enabled a series of prevailing discourses in the field of HE and student experience to surface which were then further interrogated in this chapter through a Foucauldian inspired discourse analytic approach. This chapter also highlighted a series of tensions and ambiguities that are then subjected to further analysis in chapters six to eight where the narrative accounts of non-traditional students and Law lecturers shed further light and complexity upon the issues detailed in this chapter.

This chapter has usefully exposed the multiple ways in which 'higher education', 'fast-track degrees' and 'HE students' are constructed in official texts. By dismantling and problematizing seemingly common-sense accounts of contemporary HE it is clear that claims to believable universal 'truths' must be unsettled. Working with Foucault's concept of '*connaissance*' has allowed for discursive fictions functioning 'as truth' to be recognized as such. By using a documentary (deconstruction) analytic approach, informed by Foucauldian inspired questions, I have sought to unsettle the texts. I have argued that many of the hegemonic discourses surrounding 'fast-track' undergraduate degrees, 'higher education' and 'HE students' have the power to impact on the students in this study in detrimental ways. In particular, I contend that some functions and (negative) effects are in relation to powerless subject positions, Othering, and (mis)*connaissance* which is further explored in chapters six to eight.

The implications for the non-traditional students (already disadvantaged by and within HE) in this study are significant. Given that non-traditional students are subject to powerful (yet fictional) discourses in relation to fast-track degrees and/or the Langham Institute (both of which are Othered), without resistance the students in this study are likely to be (re)positioned with even less power compared with their privileged peers. Accordingly, I argue that they become triply disadvantaged, which raises pertinent social (in)justice questions which are addressed in the next three chapters.

Chapter 6: Functions and effects of intensity discourses

Introduction

The previous chapter offered an analysis of a selection of documents (i.e. government policies, institutional documents, and media texts) all of which construct two-year undergraduate degrees through a variety of discourses including discourses of intensity. Discourses of intensity are also a feature of research into the broader HE landscape where two-year degrees are presented as a simplistic binary: two-year undergraduate degrees are either 'intens(iv)e' or not. There is scant literature that locates fast-track degrees within a nuanced 'middle ground'. Conceptualisations of 'intensity' as socially constructed also appear missing from debates; rather it presents a persuasive fiction, based upon logical common sense, that accelerated degrees will inevitably be intense.

As this thesis has argued, troubling universal 'truths' is important because it recognises that such fabrications are often misleading and result in imbalances and injustices for particular groups. It is vital to recognise that universal truths can only ever be partial, local and situated, and therefore demands that they be challenged so that entrenched ideas, which often get presented as common sense, reasonable, and based on scientific/objective knowledge can be interrogated (Osgood, 2017). Therefore the critical approach taken in this research to questioning 'truths' goes some way to expose power asymmetries in relation to social identity markers e.g. class, age, 'race', and gender. As detailed in chapter two, the implicit messages lurking within intensity discourses suggest that two-year undergraduate degrees are 'quick and dirty', 'lack rigour' and are characterised by a 'superficial' engagement with the discipline. Hence, they are often understood as an inauthentic mode of studying for a degree, suited primarily to 'inauthentic' students. This chapter seeks to unpack and trouble these ideas.

This chapter examines mature, working class 'student experiences' of a two-year undergraduate Law degree. It explores the extent to which the Law students drew upon, resisted and negotiated discourses of intensity through their narrative accounts. They actively rejected intensity discourses by either cultivating counter discourses or adapting hegemonic framings. Specifically, this chapter seeks to explore how students are positioned within discourses of intensity and how they seek to re-position themselves differently by drawing upon counter discourses in order to make alternative claims about the validity of their two-year Law degree (and their classed subjectivities). Through an

analysis of the fieldwork data it becomes possible to unearth discourses of intensity as fluid, complex and nuanced.

Before analysing the data, I begin by troubling the notion of 'intensity' as a social construct. This facilitates a deconstruction of the relevant fieldwork data. This is done in order to dismantle, unsettle and trouble taken-for-granted assumptions that appear common sense and reasonable. Deconstruction also allows a consideration of the '*function and effect*' (Osgood, 2012, p.35) of discourses of intensity – which includes the '*affective response*' (Ahmed, 2014, p.28) of students; the discursive positions (as noted above) that get occupied by the students; and the rights and obligations that flow from those positions. I turn to a problematization of 'intensity' in order to unpack it as concept, which allows for a more complex consideration of how it is taken up and refashioned by the both students and tutors.

Problematizing and unpacking 'intensity'

I contend that 'intensity' is a fabricated social construct; accordingly, and just like other social constructs (e.g. 'social class', 'the student experience'), it will signify different things to different people. Hence, 'intensity' is variously constructed and it also changes over time, place and space. As a social construct 'intensity' is powerful in that it has power over 'the body'; it is in effect embodied and felt by students; and experienced as 'real'.

As already observed 'intensity' encompasses the relationship between space and time. When an object (e.g. a Law degree) is identified as 'intens(iv)e' one is often acknowledging that a great deal of work is covered (i.e. space) in a short time frame. 'Intens(iv)e' also extends to circumstances where a usual amount of work is covered in a shorter time frame. Thus, if a Law degree is identified as being 'compressed', 'packed in', 'condensed', or 'crammed', it occupies a specific space/time relationship and therefore is routinely framed by discourses of intensity.

Commonly regarded as an abstract noun, 'intensity' signifies a type of quality or essence connected to an object/subject - in this case an object i.e. a two-year undergraduate Law degree. Consequently, there is a trace of essentialism pervading the notion of 'intensity' which then has the effect of reification. Despite these certainties about what 'intensity' is and where it can be found, the rhetoric and fabrications surrounding two-year Law degrees reveal it to be more complex and uncertain than it might appear at first glance. This research directly questions the claims that fast-track Law degrees are 'intens(iv)e'.

Dismantling the concept of 'intensity' allows for a more complex consideration of how it is taken up and refashioned by students (and lecturers). The discourses of intensity can, as a result, be complexified and comprehended in terms of multiplicity. Given that 'intensity' is an abstract noun, the term has the effect of fictioning something abstract into being - an object that is almost tangible and measurable. Following Foucault, it is imperative that such certainty is troubled and the concept subjected to scrutiny for what it obscures from view and the unintended work that 'intensity' does in the context of HE. As Foucault (1984, p.164) notes:

...positivism imposed its myths of scientific objectivity; a practice forgotten in its origins and its meaning, but always used and always present. What we call psychiatric practice is a certain moral tactic contemporary with the end of the eighteenth century, preserved in the rites of asylum life, and overlaid by the myths of positivism.

It is therefore important to contemplate the myths, practices, meanings and morality surrounding ideas about 'intensity'. All of which directly shape the ways in which people (i.e. students) construct ideas about intensity and how it becomes refashioned in different contexts and through different interactions.

'Intensity' is typically employed in two adjectival senses: 'intensive' and 'intense', both of which are regularly acknowledged to possess the equivalent meaning. Yet, when a two-year degree is constructed as 'intensive', the construction is employed in such a way that suggests others have made a distant 'objective' assessment of it – which cannot be challenged. By contrast, when a two-year degree is constructed as 'intense', the construction is employed in a way that implies a proximate, 'subjective' self-assessment has been made of it.

The notion 'intensity' is powerful that it has an '*intertextual heritage*' and a '*scent*' of a scientific discipline (MacLure, 2003, p.93). Accordingly, when an undergraduate two-year Law degree is fabricated with reference to such intertextuality/discipline, its construction becomes believable and persuasive. 'Intens(iv)e' has been used widely in a number of areas of commercial life including for example, the areas of commercial agriculture and science. It is well known that the method of 'intensive farming' includes the farming of designated land in concentrated ways. Its intensive approach, though, quickly leads to the depletion of nutrients in the soil. Nevertheless, in order to replenish the nutrients, farmers need to rotate crops. But what is less well known is that the nutrients are often

artificially replenished using chemicals that pollute the environment (Brouwer and Hellegers, 1998). This tension highlights the challenges to arise between an intens(iv)e approach to commerce and the wider impact on 'the social'. Similarly, an 'intens(iv)e' Law degree raises questions in relation to Foucault's view of 'ethics' or moral norms as it relates to his conception of 'care of the self' (Foucault, 1986). The 'intens(iv)e' delivery of the Langham Institute's two-year Law degree includes the teaching of certain students (i.e. working-class, mature students – who often are constrained by commitments outside of the classroom) in a concentrated way. Its 'intens(iv)e' approach quickly depletes students' energy and motivation, which is then offset by institutional provision of scheduled respite. Student energy/motivation is often replenished in an artificial way (e.g. by giving students a five-week 'break' between each of the three semesters – for assessment preparation) that pollutes a moral/ethical way of living, making a 'care of the self' more difficult.

The concept of 'intens(iv)e' is widely used in the discipline of science to describe the brightness of light and the nature of magnetic fields. Pure science is generally understood to be underpinned by objectivity and measurement. It is thought to produce uncontaminated knowledge that can be used to have a direct impact on society's progressive development. However, in *The Structure of Scientific Revolutions*, Kuhn (1962) questioned the objectivity of science. He argued that science does not progress in a linear, progressive way. It 'progresses' via paradigm shifts – a change of an agreed theoretical framework collectively held by scientists – which looks at scientific knowledge in a different way. Instead of scientists discovering new scientific knowledge that was previously unknown, science is a discipline where scientists look at data differently than they had previously. Kuhn, therefore, raised an important question about whether science is truly objective. Implicit in his argument is that science cannot be truly or universally objective. What counts as scientific knowledge is dictated by a particular agreed scientific paradigm. Moreover, a paradigm changes over time and is inflected by the subjectivity of the scientific community rather than the discovery of new previously undiscovered knowledge. Thus, 'intens(iv)e' is not a measurable, objective scientific concept; instead it is a complex and fluid social construction that is routinely subjected to various fabrications.

Exemplifying some of the data from this study

With this in mind, I now turn to data from this study to identify discourses circulating in relation to intensity and how they shape student subjectivities. This is done in order to dismantle, unsettle and trouble taken-for-granted assumptions that appear common sense and reasonable. This is important because, as mentioned earlier, a questioning approach to universal ‘truths’ can expose power asymmetries in relation to the intersectional nature of social identity markers e.g. class, age, ‘race’, and gender (Crenshaw, 2009). Moreover, exposing power asymmetries enables the specific research objective(s) of this study to be addressed.

‘It’s like: Go, go, go... – negotiating ‘intensity’

Sherif was amongst many of the participating students to draw upon discourses of intensity to make sense of his student experience. There was a sense that he had experienced his Law degree in a ‘condensed’ way; he claimed that there was extensive legal content to cover in a relatively short time frame. He recounted the ‘intensity’ of his degree:

...it’s very condensed, what we’re doing [on the Law degree]. It’s like ‘Go, go, go, go, go, go’. So it’s always on the move. I love that challenge because of the fact that my mind’s kind of framed around it, because this is something that I want to do and that’s what I want to do, but... it can be overwhelming sometimes, because you have to really cover a vast area for a period of two years. Yeah, the Law degree, the way it’s taught here...I found that the Law degree is quite a lot to take in really, it’s daunting, it’s quite a lot to take in within a period of time, of two years. (Extract 6.1: Sherif, Male, 40, BME)

From this excerpt it is evident that Sherif is almost suffocated and submerged by the (disciplinary) power that navigating a ‘vast area’ of legal knowledge exerts. The intensity of the LLB is both dynamic and powerful and works to actively overpower Sherif, who finds that he is constantly playing ‘catch up’. Discourses of intensity produce a direct (implied) effect for Sherif which momentarily positions him as relatively powerless - with a limited degree of agency. It is noticeable that his reference to: *‘My mind is ...framed around it’* is a passive grammatical structure which indicates a lack of agency and actively positions him as needing to constantly appraise what is required. The indirect effects of

the discursive positioning that Sherif is subject to are also discernible in this quote. The on-going obligation to keep up with his degree workload insists upon acute self-regulation.

The hegemony of 'intensity' discourses visibly work on Sherif and the ways in which he is more or less able to negotiate his forming subjectivities as a Law student on a fast-track degree. 'Intensity' appears to primarily serve the interests of those who are positioned as powerful (e.g. the Langham Institute, the Law tutors) and ensure that the powerless in HE (i.e. a working class, BME, mature student) will acquiesce without protest. Where students perform less well in a module assessment compared to exams the attainment level is presented as being connected with the 'intens(iv)e' nature of the course and students' inability to cope. Sherif frequently performed less well in module assessments and so was routinely subjected to this judgement. A Law tutor, Irene (Female, age withheld, WB) stressed the 'intense' nature of the LLB by making a direct link between 'intensity' and academic achievement. Her view was that it was entirely feasible for the LLB to be contained to two years if students better applied themselves. More typically though the course ran into a third year, something that students were warned about at the start. With such framings in place Sherif's relatively poor attainment in coursework becomes attributed to personal failings. Furthermore, his 'inability to cope' with the demands of an 'intens(iv)e' degree are readily connected to his multiple subjectivities. As a mature, working-class, student from a BME background with additional demands on his time, he has not 'applied himself' adequately and is therefore read as under achieving and unable to cope. This neo-liberal, enterprising individual trope associated with intensity directly attributes failure to the individual and effectively diverts attention from the HE system generally, and the Langham Institute more specifically, as what is faulty and needs changing (Burke et al., 2017). This form of (mis)'*connaissance*' as Lumb and Burke (2019) suggest can be harmful to an individual, like Sherif, and further disadvantages him.

Structural inequity was mentioned by another tutor, Olivia (Female, 36, WN¹³) who, like Irene, claimed that the LLB was 'intense' but only for those students who have caring and paid work commitments. Olivia revealed that she would only recommend a fast-track Law degree to students who were young, not working, and childless. She concluded that a fast-track degree becomes unmanageable and overwhelming for students who faced structural barriers e.g. students who were older, working, and/or had children. Drawing upon the concept of 'Othering' (De Beauvoir, 2010 [1949]; Said, 1978) to illustrate how

¹³ White, Nordic

discourses can shape subjectivities, 'the double-bind' (Reay, 1997) of an 'Othered' student studying an 'Othered' degree means that working-class, BME, mature students (like Sheriff) on a two-year degree at the Langham Institute are more likely to be regarded as secondary and inferior to traditional students on a three-year degree (at a 'public' sector university). There was a sense of Sheriff being routinely Othered throughout his interview which I go onto to discuss below.

It is clear that Sheriff's temporary positioning as a relatively powerless and suffocated Law student, subsumed by the intensity of a two-year Law degree is interwoven with other discourses. To make sense of his Law degree Sheriff also draws upon a discourse of rigour shaped by neoliberalism. He takes up the discursive position of 'bright' Law student who enjoys the '*challenge*' of a two-year Law degree, yet simultaneously positions himself as 'choice'-maker. Sheriff indicates that he likes the challenge of his two-year Law degree '*because this is something that I want to do*'. His decision to learn in an accelerated mode implies that he has made an individualised (neoliberal) 'choice' to study via a (rigorous) method of delivery.

This particular discourse of rigour acts as a counter-discourse to the common-sense narrative that is 'told' about fast-track undergraduate degrees. As outlined in chapter two, fast-track degrees are fabricated as lacking rigour and claimed to offer only a superficial coverage of the discipline. Sheriff can therefore be understood to be reclaiming some power in order to reposition himself as 'bright' and thereby avoid a discursive position of 'dim' Law student. Chapter five also mapped out the ways in which fast-track degrees are constructed via powerful texts as enabling 'choice'. But the notion of 'choice' must be problematized since there is no real 'choice' in relation to HE for a student (like Sheriff) who is marked by class, age and 'race' intersectionalities. Research shows that working class, mature, BME students have no real choice in where or what they study at HE. Working class, mature, black students are located predominately at the lower end of the university hierarchy (Archer and Huthchings, 2000; Leathwood and O'Connell, 2003; Reay et al., 2009b; Martin, 2012; Burke et al., 2017) and tend to study for vocational degrees (Archer et al., 2003; Lehmann, 2009; Burke et al., 2017) which have lower status. Despite this, Sheriff works hard to navigate and resist this hegemonic framing of non-traditional students in the ways that he attempts to make sense of his two-year degree. He actively re-positions himself as a relatively powerful working-class, mature (BME) student of Law, which he further strengthens by claiming that he exercises agency in the choices he makes about the course and mode of study. Whilst this momentarily elevates

him, he quickly becomes re-positioned as 'Other' through the dismissive and critical sentiments voiced by some of the Law tutors.

A binary opposition structures Sherif's words when articulating the fluidity of his Law degree: '*it's always on the move*'. He simultaneously indicates a desire for more stability and fixity by suggesting a need to frame his mind around it. This desire for fixity echoes the ways in which the 'intens(iv)e' nature of two-year degrees are hegemonically constructed within the research and policy literature. As argued in chapters two and five, two-year degrees are persistently presented as in some sense intens(iv)e. However, Sherif's words indicate that his Law degree is more fluid than the literature attests, which draws into question the persistence of intensity. Taking intensity as a social construction that is generated and amplified through discourse offers a pause for thought. It seems that the issue for Sherif is the ways in which discourses of intensity operate on him, and affectively generate a sense of fear and being overwhelmed by the enormity of what he has taken on. But this discursive positioning shifts when he draws upon counter discourses to make sense of his subjective experiences of studying a two-year degree; as a neoliberal subject he is actively exercising agency over the informed choices he makes about his education. The intensity that Sheriff encounters is not exclusively generated by studying an accelerated degree; like others he combines study and part-time employment. His part-time employment with the NHS made its own demands on him and his time; as a fast-paced field of employment Sheriff is subject to the NHS as a cultural context shaped by efficiency, accountability, and intense workloads. Therefore, his reflection on the intensive nature of his Law degree are inevitably inflected by the intensity of the part-time work he does to facilitate study. The entanglements of study and work have been extensively researched (Moreau and Leathwood, 2006b; Reay et al., 2009a; Clayton et al., 2009; Lehmann, 2012b; LETR, 2013; The Paired Peers Project, 2013) and for Sherif the interplay of discourses shaping these dual aspects of his life work to deepen the sense of intensity.

Sherif's '*affective response*' (Ahmed, 2014, p.28) to this, at times, overwhelming sense of intensity can be related to Ahmed's economy of fear. In chapter four, it was noted that Ahmed's (2014, p.15) conceptualisations of an '*economy of fear*' contests that fear is assigned to some bodies (e.g. the Langham Institute, its tutors and its fast-track Law degree) and not others. Those bodies become '*sticky*' (ibid., p.89) within a wider network. The bodies most feared then constitute a collective danger operating within a discursive culture of fear for others (in this case, Sherif as a Law student) within that culture. As discussed in chapter two, the culture of any HEI is important, as it is often experienced

as alienating for most non-traditional students (Read et al., 2003; Jack, 2019) - like Sherif - who are more likely to become 'Othered' as a result (Read et al., 2003). Sherif's experiences of 'Othering' emerged during one of the focus groups (in response to a video clip from *'This Life'*) where he articulated his imagined future in the legal profession:

....the other thing is that the legal profession is for people who are from a certain background.....a much more privileged background, and I'm not from a privileged background, so...I was told, 'OK, well you know what? They might ...' Although because of the fact that the type of person I am, I never give up anything, because I always feel that all you've got to do is to knock on the door and push yourself to that level, but then I'm aware of those issues, that I need to take into account when I'm studying or looking forward in time to career development.
(Extract 6.2: Sherif, Male, 40, BME)

To imagine a future career, Sherif draws upon two intertwined discourses of discrimination and meritocracy. The former positions him as 'Other' while the latter provides opportunities to challenge and negotiate such a subject position. Drawing upon the notion of meritocracy he is about to construct himself as a 'hopeful' and 'tenacious' Law student as a means to make sense of his future. As a working class, BME student in his 40s, Sherif is acutely 'aware of those issues' i.e. the discrimination he is likely to encounter based upon the intersection of his classed, 'raced' and aged subjectivities. He recognises that he is multiply disadvantaged in the elite legal world when he states: '*....the legal profession is for people who are from....a much more privileged background, and I'm not from a privileged background*'. But he goes on to draw upon discourses of the enterprising, neoliberal subject and working-class hero to argue that his strategic choices, hard work and steely resolve will ultimately overcome systemic, structural prejudice.

His astute recognition that the legal profession is very white and middle-class is supported by a wealth of literature (Francis and Sommerlad, 2009; Sommerlad et al., 2010; Tomlinson et al., 2013; Budd, 2017). For Law graduates wanting to gain entry to a city Law firm as a trainee solicitor, firms tend to recruit younger graduates (Ashley, 2010). Sherif's chances of 'knocking on the door' and 'pushing himself to that level' signal a refusal to accept the inherently exclusive and elite nature of the legal world. He refuses effectively to be positioned as 'Other' by drawing upon a meritocracy discourse which momentarily re-positions him as a hopeful (i.e. '*...they might..*') and tenacious ('*...I never give up anything....you've got...to knock on the door and push yourself...*') Law student. Whilst

laudable, such investments in counter discourses do little to challenge the structural realities of elitist exclusionism associated with the legal profession. Meritocracy (i.e. people achieving good things in life based on their own skills, merit, talent, effort, and hard work) has been exposed as a myth (Young, 1971[1958]). Already privileged people capitalise upon their privilege through 'hot knowledge and networks' (Ball, 2006) – the adage 'it's not what you know, but who you know' comes to characterise how people negotiate their way into the legal profession and enjoy successful careers. Meritocracy has been exposed as a fiction that sustains inequality within the (higher) educational system, the workplace, and beyond (Morley, 1997; Leathwood, 2004; Reay, 2006; Sommerlad et al., 2010). Meritocracy is based on a biased notion of merit which is inherently classed, 'raced' and gendered (Leathwood, 2004; Sommerlad, 2011). Accordingly, *'merit' is highly subjective and is 'situationally specific'* (Leathwood, 2004, p.43). It appears that Sherif recognizes the falsehood of meritocracy but nevertheless an investment in it, as a counter discourse, does important work for him in imagining that another future might be possible.

'Cramming three into two' – negotiating 'intensity'

Michaela also constructed the two-year Law degree as 'quite intense'. She explained that her course was the equivalent of a three-year degree crammed into two years, like others she reported that the course make multiple, competing demands simultaneously which required that she perform some kind of 'balancing act':

....it's quite intense, because if you think about it you're cramming three [years of a Law degree] into two... you've got a lot of preparation and a lot of things to do....some subject areas have seemed quite tough, because it's quite a lot to know, isn't it, they're quite intense. We've had so many different things going on at different times and I think a big thing is if you don't prepare it really doesn't help you in lectures or seminars. It makes it more difficult I suppose, for tutors as well as the learners. It's been a challenge but it's been good, good and bad really, because like I said, with the intensity that's the thing, you've just got to be prepared. Lately we've got this thing coming up, then two things to hand in one week, on top of revising for mock exams and you want to do well, just so you know you're going in the right direction for the exams, in preparation for those, so it's quite a balancing act.
(Extract 6.3: Michaela, Female, 27, WB¹⁴)

¹⁴ White, British

This quote insists that in order to pursue an 'intens(iv)e' degree successfully preparation is essential. Preparedness for study at the Langham Institute can be read as a form of Foucauldian self-regulation, and Michaela as a subject of disciplinary power. On disciplinary power, Foucault (1977, p.138) wrote that it:

....defines how one may have a hold over others' bodies, not only so that they may do what one wishes, but so that they may operate as one wishes, with the techniques, the speed and the efficiency that one determines. Thus discipline produces subjected and practiced bodies, 'docile' bodies.

Disciplinary power then, is embedded within the intensity discourses that Michaela draws upon. Self-governance becomes a core feature of the two-year degree on account of the ways that intensity and preparation discursively frame it. Disciplinary power is made possible by self-regulation in the face of constant panoptic surveillance. The combination of both formative and summative assessment, the constant need to prepare for face-to-face teaching, and the endless performative demands of the intensive course, collectively work to regulate and control this group of students. Such disciplinary technologies are effective in ensuring that students are persistently challenged and often left wanting, and so make further investments to catch up. Furthermore, such technologies work to reinscribe and strengthen the discourse of intensity. The 'objective' gaze of the Langham Institute (as outlined in chapter five) is further intensified by its Law tutors when they construct a fast-track degree as 'intens(iv)e'. For example, Mark (Male, 49, WB) expressed the view that a two-year undergraduate LLB should be useful to those students who just wanted 'to get on with it' since it holds the potential to get students into the workplace sooner. But what of students, like Sherif and Michaela, for whom 'getting on with it' is not always an option and securing a position in the legal profession is far from certain.

Through panoptic surveillance and self-regulation Michaela becomes a 'vehicle of power' (Foucault, 1980, p.98) that reinscribes notions of intensity. Through subjective self-surveillance and investments in the idea and practice of intensity she becomes complicit in sustaining the discourse. She has succumbed to the hegemonic discourse of intensity and uses it to make sense of herself as a hard-working and diligent student. It appears that she takes a degree of pride in managing to cope with the demands of a crammed course that involves 'quite a lot to know'. However, the 'crammed', 'condensed' and therefore 'intense' course that she studies covers the same number of learning credits as a three-year degree but it does not cover the same number of Law subjects. A typical

three-year Law degree in English universities covers 12 subjects (ACLEC, 1996; LETR, 2012), whereas the two-year Law degree at the Langham Institute covers only eight. Hence raising questions about precisely how intense and crammed the degree really is.

As outlined in chapter three, disciplinary power requires a judgement of some kind. For Foucault a '*normalising judgment*' (Foucault, 1984, p.188) is concerned with a 'normal' versus an 'abnormal'. In respect of Michaela's account, the '*normalising judgement*' can be understood to originate from the context of the Langham Institute and specifically within lectures, seminars, and exams. Michaela's investments in a prepared selfhood is deployed to produce an outcome that avoids being judged as 'substandard' or 'abnormal'. Being prepared and conforming to the demands of a discursively framed 'intensive' degree positions her as a 'conscientious, well-prepared, ideal learner' thereby facilitating the acquisition of a normative subjectivity. Such a positioning though is very fragile when inflected by her classed and gendered subjectivities as a working-class, woman ('*dirty, dangerous and without value*' Skeggs, 1997:74). Intensity discourses then can be seen to intersect with hegemonic discourses circulating about working-class women in society to shape Michaela's student experience in ways that actively disadvantage her.

Following on from Michaela's diligent approach to preparation is a logic that so long as a student prepares for learning sessions academic success is assured. This is not dissimilar to the debate about meritocracy presented above, hard-work and diligence is only part of the picture. 'Doing well' academically in (higher) education is mediated by social class, age, 'race' and gender (Reay et al., 2005; Sabri, 2011; Burke et al., 2017) among other subjectivities. Therefore, self-positioning within the intensity discourses, when inflected by multiple (Othered) subjectivities, becomes precarious. Although at the time of interview how educational 'success' is defined and made possible is not fully recognised. Michaela can be seen negotiating discourses of intensity by drawing upon neoliberal discourses to arrive at a suitable subjectivity: '*....with the intensity that's the thing, you've just got to be prepared.*' and '*....I didn't think it was as intense as it was, but if you organise yourself, you manage it.*' Her firm adherence to, and an investment in, constructions of the enterprising neoliberal subject (Ball, 2003; Davies, 2010; Webb, 2015) involves drawing upon individualised strategies to legitimise her student subjectivities, and so lay claim to heightened authenticity as a means to practically succeed on a non-traditional degree. Through this she is repositioned within discourses of intensity in ways that transcend derision. As charted in chapter two, neoliberalism ignores structural explanations for the social inequalities and it tends to blame individuals

for their failure to flourish (Giroux, 2013). Therefore, this temporary re-positioning can be viewed as highly precarious and offering only temporary respite.

'Everything's packed in' – negotiating 'intensity'

Johnson also negotiated discourses of intensity in the way that he constructed his Law degree. He explained that the absence of a summer holiday meant the duration of his course was intensely packed and relentlessly demanding. Johnson acknowledged that not all students were able to cope with the demands of the degree. Despite witnessing some of his peers struggle, he considered himself to have managed the 'intensity' of his degree well, which he rationalised in terms of his 'disciplined' background. He said:

Because there is no break or anything, the whole two years is a packed period, from January-to-December, there is no break or anything so everything is packed in. Unlike when you do a three-year degree - you have a summer break, relax, come back fresh for the next session. No, you don't get to enjoy that in a two-year degree, everything is just packed into two years, or around two. Which sometimes is tough, in fact I think it's very tough, very, very tough on students because not every student has the same ability to cope with so much pressure within a short period of time.

Stuart: *And would you say that you cope well?*

Personally, I think I cope well. I've seen others struggle. Personally, I'm able to deal with it. Maybe because of the background I had - a strict, disciplined way, I'm able to cope with the pressure. But I've seen a lot of people...there were lots of us that were starting together, now I'm in my final year and more than half of those of us that started are not finishing with us. (Extract 6.4: Johnson, Male, 31, BME)

The first part of this quote from Johnson is structured via a binary opposition that valorises traditional three-year degrees and denigrates two-year degrees. To some extent, he demonises two-year degrees because they have 'no breaks', 'everything is packed in' and pressurised. By contrast, he valorises three-year degrees because students can enjoy a relaxing summer break and return 'fresh' for the following academic year. The

tension inherent within this binary, however, is that for many working-class, mature students a relaxing summer break is a fantasy. Most non-traditional students have little choice but to continue with paid work during the holidays (Clayton et al., 2009; Lehmann, 2012b) and/or attend to childcare commitments (Bamber and Tett, 2000).

Like others, Johnson stresses that a two-year Law degree is 'intens(iv)e'. In making sense of his degree and himself Johnson draws upon a discourse of rigour and relative success. Like Sherif (above), Johnson draws upon a discourse of rigour by claiming that a two-year Law degree is challenging '... [it's] *tough, in fact I think it's very tough, very, very tough on students...*'. compared with a three-year degree. Celebrating the 'toughness' of the degree works to elevate it, and by association himself. As a 'bright' Law student he declares that he has the capacity to withstand pressure and demonstrate academic rigour. Johnson effectively navigates the discourses of intensity and rigour to claim a valid and valuable subjectivity. By making reference to his peers as failing to cope he signals how they are placed under the effects of power. By implication, Johnson (like Michaela) becomes a '*vehicle of power*' (Foucault, 1980, p.98) by foreseeing and navigating ways around the power effects. The discursive positioning of his peers as powerless (especially those lacking the '*ability to cope*' with the intensity of their two-year degree) works to mark him as more worthy and authentic.

Johnson's construction of his peers is consistent with how non-traditional students construct personal experiences of the academy i.e. in deficient terms, and in particular, as of one of 'struggle' and in terms of an inability to cope (Reay et al., 2002; Leathwood and O'Connell, 2003; Moreau and Kerner, 2013). For instance, Leathwood and O'Connell's (2003) research discovered that non-traditional students experience university very differently from traditional ones. Non-traditional students often have to work during term-time and mature students often have care/family commitments – all of which impact on studies. The research also uncovered that, in terms of confidence, many non-traditional (particularly female) students wrestled with this. Nonetheless, the authors argue that, confidence ought to be thought of differently. Instead of non-traditional students being seen as lacking confidence (in deficit and pathologized terms), confidence should be conceived of structurally, in that 'the social' discursively positions working-class, female, and BME individuals as having less value in society.

It is interesting to note that Johnson constructs the experiences of his peers in alignment with non-traditional students but refuses the positioning himself. It is noteworthy that a non-traditional student constructed (o)ther non-traditional students' experiences (on the same two-year Law degree) in terms of deficiency. This '*abject Othering*' (Reay et al.,

2007; Hall, 2011; Read, Francis and Skelton, 2011) sees Johnson re-assign negative qualities onto others i.e. 'them over there' - although ironically, he is in the same place structurally and institutionally. The highly competitive neoliberal context of both HE and Law may account for Johnson's deep investments in resisting negative subjectivities that are so readily conferred upon Othered students, on an Othered degree, at an Othered institution. Marking himself as superior to his struggling peers holds the potential to temporarily elevate his sense of authenticity and provide a justification for the choice he made about what, how and where to study. Several Law tutors in this study also constructed student experiences via deficit discourses, for example Olivia (Female, 36, WN¹⁵) suggested that students on the fast-track degree were unable to cope with '*the sheer intellectual challenge*'. Specifically, she contended that students struggled with '*getting the reading done, understanding the reading and the legal language*'. Such views actively work to push Johnson and others like him who were seeking to position themselves differently, back into places of deficiency and inauthenticity.

Thus, like Sherif and Michaela, Johnson navigates discourses of intensity in complex ways by drawing upon discourses of academic rigour and relative deficiency. This discursive fabrication that Johnson invests in constructs himself as successful whilst students unlikely to finish on time are viewed as pathologically 'lacking'. It also fails to recognize the wider, structural forces that impact on working-class, mature students (Leathwood and O'Connell, 2003; Moreau and Kerner, 2013). For example, most working-class mature students (with child-care responsibilities and/or paid work commitments) are constrained from fully engaging with a two-year Law degree. Busy lives outside of HE means there is less time to devote to study; in effect it is an uneven playing field that actively disadvantages the already disadvantaged. Despite being a mature, working-class student Johnson was more closely aligned to a normative, white, middle-class, unencumbered student than many of his non-traditional peers. With no caring or paid work commitments Johnson was blessed with relative '*freedom to flourish in higher education*' (Calitz, 2019, p.i).

Johnson invests deeply in drawing upon a deficiency discourse to explain his relative capacity at 'coping well' and the value of a 'disciplined' background. Elsewhere in the interview, he reflected upon growing up with a religious home/school life: '*I had - a strict, disciplined way, I'm able to cope with the pressure*'. Johnson appears to ascribe his disciplined (and accordingly, self-regulated) upbringing to an 'ability' to cope well rather than recognising that it is likely to be associated with his age, gender and being

¹⁵ White, Nordic

commitment-free. Johnson narrates an heroic working-class student discourse (Part, 2016) shaped by neoliberal competitive individualism. As indicated in chapter two, hallmarks of neoliberalism include competition and individualism (Giroux, 2013) which together mask wider structural issues at play. Johnson fails to recognise that 'the personal is political' (Mills, 1959; Hanisch, 1970; Phipps, 2016) - and therefore omits to take into account structural explanations for his capacity to cope - more readily than others in his peer group.

'It's just a laughing matter' - resisting 'intensity'?

Unlike some of his peers (i.e. Sherif, Michaela and Johnson), Bob initially resisted claims to intensity in the ways that he reflected upon his degree. Bob explained that even though others constructed his LLB as 'intensive' (because it was a fast-paced, three-year degree compressed into two), he resisted this construction. He thought that the 'intensity' of his degree was not that significant and was certainly not worth promoting to prospective employers. Bob clarified this aspect of his student experience as follows:

Most people would say it's intensive because it's three years into two years and because there is less holiday and it's a more fast-paced environment. But, I honestly, I don't think that's something to talk about because it's just study as any other is....I was surprised when actually I went to, it was here, the careers department and they said to me, 'Oh, you should put in your CV it's three years in two years, it shows that you can handle the pressure.' Me, I never thought about it in that kind of light. I was like: 'Really, I should put this kind of thing [on my CV]?' For me, it's just a laughing matter, like two years, three years, what sort of achievement? 'No, no, no, listen to me, you have to put it in because it is something.' So other people say, yeah it is something, but I don't find it myself as difficult. (Extract 6.5: Bob, Male, 27, WE¹⁶)

Bob appears to have been subject to discourses of intensity and employability. This external construction of the 'intensive' nature of a two-year degree was forcibly evoked by the careers department on the insistence that it should feature on his CV. The value that a prospective employer would identify regarding the 'intensity' of a two-year Law degree was something Bob should not overlook. It signals his employability based upon

¹⁶ White, Eastern European

an assumption that he *'can handle the pressure'*. However, Bob resisted such ideas, his refusal to accept that *'three years into two years'* accurately described his Law degree signals a notable degree of agency.

Unconvinced by the career department's claim to 'truth' about the 'somethingness' of three years into two explains the reason Bob appears to maintain that the 'intensity' of his degree is no special *'achievement'* and is unlikely to make him any more employable (than Law students on a three-year degree) in the legal workplace. Bob is actively problematising the prevailing common-sense narrative about the 'somethingness' of three years into two, and what that is said to represent. As a 'knowing subject' (Hornborg, 2006) he recognises that most legal employers attach less weight to the *duration* of an applicant's LLB and more weight to *where* s/he has completed the degree (Sommerlad, 2011). This entrenched practice, of course, draws upon the 'hierarchy of university' discourse (Leathwood and O'Connell, 2003) which is inflected by class, age and 'race' and gender (see chapter two). The hierarchy is reinforced by other discursive practices, for example, many elite Law firms do 'milk rounds'¹⁷ predominantly at pre-92 universities (Sommerlad et al., 2010) where student populations are typically white, younger and middle-class (Reay et al., 2005). Bob appears to be aware that the legal profession is *'elitist'* and *'socially exclusive'* (Webb, 2015, p.115) and recognizes (at least partially) the rules of the game.

Bob's apparent awareness of social inequity in the world of Law provides explanation for his investment in a counter discourse. He resists the power embedded in the interwoven discourses through disdained mockery and the cultivation of a 'discourse of derision' (Ball, 1990a). Bob implies that studying for a two-year undergraduate degree is nothing special - *'it's just study'* and to connect its 'intensity' with employability is *'a laughing matter'*. It is also significant that Bob is able to resist hegemonic intensity and employability discourses and begin to rework them. As McCaig et al. (2007) uncovered, there are various reasons Law students are attracted to two-year degrees including the potentially positive perception (held by employers) of the 'intens(iv)e' nature of it. Yet my research shows that Law students exercise agency as a means to resist hegemonic constructions of a two-year Law degree in relation to intensity and employability. Constructing his studies in this way elevates the credibility of Bob's Law degree so that it is in closer alignment with a traditional LLB. This also temporarily (re)positions him as an 'authentic Law student' and so escape the harmful and combined subjectivities of an

¹⁷ A 'milk round' is a traditional method used by powerful Law firms in recruiting graduates. They do this by attending certain (research-intensive) university Law fairs to promote their firms to a certain type of ('ideal') Law student.

Othered (working-class, older, eastern European) student, studying for an Othered Law degree, at an Othered HEI. Drawing upon and extending Jack's notion of 'doubly disadvantaged' students - formed when some working-class students attend, and are exposed to the unfamiliar '*new world*' of, an elite university (Jack, 2019, p.11), I argue that Bob's bid for authenticity is done in order to escape the harmful subjectivities of being a triply disadvantaged student.

Like Bob, Stacey (Female, 28, BME) also compared experiences of the two-year Law degree with that of a three-year one, albeit via the panoptic 'gaze' of her friends. She stated that some of her friends, who were studying on a three-year LLB considered two-year degrees 'intensive' because they were 'compressed' and 'rushed' and therefore relatively inferior resulting in a lack of understanding the Law. Stacey resisted this construction:

Well, I've spoken to some of my friends that are studying Law in other universities on a normal three-year course and I've had a few come up to me to say that they think a two-year course is not really good 'cause they feel like the programme is all compressed and they think you're rushed through some of the topics. They believe with them they get a chance go through everything properly and get to understand better than we do. That's what they seem to think.

Stuart: And what do you think about that?

Stacey: They could be right, but personally I don't see it like that.

Stuart: How do you see it?

Stacey: I think we have enough time to go through the topics. I think we have enough time to properly go through the topics and we touch on the important things that we need to know. (Extract 6.6: Stacey, Female, 28, BME)

It is interesting to consider the ways in which the panoptic 'gaze' position Stacey as a certain sort of subject. She is momentarily positioned as powerless and in some sense inferior, substandard and lacking. The denigration of her chosen degree by her friends calls into question the quality and extent of legal knowledge that has been gained. By implication her friends infer that they possess both more power and knowledge than she

does. The implication is that, by comparison, Stacey's legal knowledge (and thereby her selfhood) is inevitably inferior.

The discourse of intensity that her friends draw on rests on a prevailing, common-sense narrative which must be problematised. The dominant ideas about fast-track undergraduate degrees suggest that students who want 'a quick fix' will be attracted. The courses themselves are claimed to lack rigour; and offer only superficial disciplinary coverage. It is problematic because it rests on a set of assumptions firstly that deep learning cannot take place if an undergraduate degree is two-years in duration; secondly that 'student' is an homogenous group; and finally, that students learn in the same way and at the same pace. Paradoxically, the same narrative is not rehearsed for post-graduate Law students who study for the CPE or a 'senior status' two-year LLB. The dominant narrative therefore feeds into deficit constructions of two-year undergraduate degrees. Accordingly, I maintain that this is more to do with an unjust reflection of the students (i.e. working-class, mature, and BME students) that tend to study on them, rather than the nature of degree itself. As a working class, mature, BME student - already Othered by and within the HE system, Stacey's (re)positioning (via discourses of intensity that her friends have subjected her to) temporarily disadvantages her further.

Yet, Stacey is not an entirely 'docile' subject, she resisted her friends via a counter-discourse. Her resistance is displayed when she says: *'I don't see it like that'*. She saw her degree as unrushed and that she had *'enough time'* to concentrate on the important legal topics *'that we need to know'*. Her counter-discourse can be aligned to one of the Law tutors (Sidney, Male, 46, BME) who constructed the Langham Institute's two-year LLB as non 'intens(iv)e'. He conceded that the Langham Institute could *'just about get away with'* claiming that its LLB was 'intensive' - because (just like Michaela and the careers department, above) it is 'three years into two'. However, Sidney refuted the claim that it was intensive because it was nowhere near the 'intensity' of the Oxbridge one-to-one tutorial system.

In fact, it seems Stacey's resistance is based on neoliberal employability (counter) discourses in relation to two-year undergraduate (Law) degrees. She regards them as a means to learn the core legal topics which provide a sufficient basis for securing a legal job. Conversely, she considers three-year undergraduate (Law) degrees unnecessarily protracted, involving learning irrelevant legal topics. Stacey's discursively (re)positions herself as strategic, instrumental' and shrewd and simultaneously (re)positions her friends as inefficient and self-indulgent. This reframing constructs the two-year LLB as a

valid form of '*neoliberal legal knowledge*' (Thornton, 2007, p.2). Thornton (ibid.) asserts that the curriculum in many Law schools in the UK (as in other countries) has experienced a reduction in criticality. That is, modules concentrating on '*what the Law is*' rather than '*what the Law ought to be*' (Thornton, 2012, p.59). Law schools have tended to abandon certain Law subjects (e.g. jurisprudence and 'social justice' modules) by '*sloughing off the social*' (ibid., p.67) in favour of company/commercial Law subjects - in order to meet the demands of the legal profession. Accordingly, Thornton (ibid., p.xii) argues, '*the social*' and '*the critical*' have given way to the '*technocratic and the instrumental*'. For Thornton (2007), this evidences the fact that Law students in the UK are being 'trained' rather than educated.

The idea that contemporary Law students are 'trained' can be aligned to Foucault's conceptualisation of governmentality. For Foucault (1984, p.15) '*the art of government*' is all about a mentality of a state (or any other powerful body e.g. the SRA or a Law school) controlling its population from a distance. This ensures that the populace can regulate its own conduct or, as Brady (2014, p.18) articulates, can demonstrate its own '*conduct of conduct*'. For Brady, one effect of governmentality is that individuals acquire '*neoliberal subjectivities*' (ibid., p.31). There was a hint that Stacey regarded herself a neoliberal subject when, later in the interview, she commented that some of peers were frequently late to class, and in her view therefore needed to train themselves to be more punctual.

The hegemonic neoliberal subjectivities conferred upon Stacey are shaped by (counter) discourses in relation to her Law degree. As stressed in chapter five, only 50 per cent of Law graduates in this country enter the legal profession (Thornton, 2012; Sommerlad et al., 2015) and of those most are predominantly white, male, and middle-class (Sommerlad et al., 2010; Ashley et al., 2015) and already advantaged by positions of power and privilege. Thus, in obtaining a Law degree based on '*neoliberal legal knowledge*', Stacey is effectively advancing the interests of those in power (e.g. the Langham Institute, its Law tutors) rather than her own. Furthermore, if Stacey 'chooses' to enter the legal workplace, as a black woman in her later 20s, her combined 'raced' and gendered subjectivities will (re)position her as 'space invader' (Puwar, 2004). Consequently, she may find it harder to flourish in the legal profession. Puwar contends that when 'space invaders' become insiders and enter spaces (e.g. elite Law firms) traditionally reserved for certain (traditional) occupants '*terror and threat*' often arises when non-white women occupy spaces in male, white spaces and places. She continues by claiming that: '*Not being the ideal occupants of privileged positions, "space invaders*'

endure a burden ofsuper-surveillance.' (ibid., p.11). In consequence, the reproduction of disadvantage will continue for Stacey, as a result of the higher levels of surveillance of her and her work that she will likely encounter in her future legal career.

Conclusion

This chapter has contributed to answering the research questions by illustrating the ways in which some of the working class, mature students in this study drew upon or resisted intensity discourses and constructed their experiences of a two-year undergraduate Law degree. However, drawing upon or resisting (hegemonic) discourses of intensity rarely operated in isolation; these Law students drew upon a range of other discourses including neoliberalism, employability, rigour and deficit discourses in order to make sense of their degrees and their own shifting subjectivities.

The extent to which the working class, mature students in this research discursively (re)positioned themselves was noticeable. Students were able to exercise a certain degree of agency in negotiating their discursive (re)positionings from positions of relative powerlessness to something (temporarily) more powerful. The powerless subject positions included: suffocated Law student; Othered subject; dim Law student; and abnormal or deficient subject. The powerful discursive positions included: bright Law student and choice-maker; conscientious, well-prepared learner; authentic Law student; and instrumental, shrewd, enterprising neoliberal subject. Given that working class, mature students are already disadvantaged within HE, I have argued that the less powerful positions temporarily disadvantage them further. But the students in this study seemed to be able to escape these positions – albeit fleetingly.

The ways in which intensity discourses can function on the working class, mature students in this research was also unearthed. In one case, it functioned to produce an affective response of mild fear. Given intensity discourses generated an affect for at least one (male) student, this raises the question of the significance of the role of affects and emotions for students studying in the legal academy. I discuss this gap in knowledge more fully in chapter nine. This chapter has raised a series of questions about the alternate ways in which students construct their student experience that reach beyond a narrow concern with 'intensity'. It has also drawn attention to the other discourses that are put to work by this group of students to reclaim value of what, how and where they study. The next two chapters explore in greater depth employability discourses and the

ways in which students navigated, reclaim and reject discourses that seek to construct them as consumer, investor and partner.

Chapter 7: An identification and problematisation of the discourses that construct the fast-track Law degree student as ‘consumer’, ‘investor’ and ‘partner’

Introduction

This chapter offers an analysis of how participant students constructed their experiences of a fast-track Law degree in ways that reach beyond ‘intensity’. This was achieved by identifying and exploring a range of discourses that currently work to frame the normative HE student. Discourses of student as consumer, investor and/or partner circulate in contemporary debates, policies and practices that highlight a series of tensions. These hegemonic discourses have important implications for non-normative students (i.e. working-class, mature students on a two-year degree at a private HEI) and how they are positioned and multiply disadvantaged. This chapter is in ‘conversation’ with parts of chapters three and five, where students were shown to be frequently constructed in a one-dimensional way i.e. as either a consumer, or an investor, or a partner. When students are constructed as ‘consumer’ it tends to position them as powerless. Conversely, when students are constructed as ‘partner’ they generally assume a more powerful positioning. The literature chapter also showed that students are frequently constructed in a fixed, non-negotiable and consistent way. But what the literature does not address is the structural circumstances under which these hegemonic discourses act to (re)position them as more or less powerful.

An analysis of the data from this study adds to the research conversation by revealing that most students in the study took up and resisted various constructions available in discourses about the characteristics of contemporary student(s). They navigated three interwoven discourses that prevail in the current climate, that is student as consumer, investor and/or partner. This chapter also contributes to the research landscape by unearthing that even when students draw upon discourses of student(s) as consumer, partner or investor they were able to negotiate them with ease. As highlighted in the previous chapter, they did this by drawing upon various discourses simultaneously – thereby negotiating a subject position as fluid and contingent. This research reveals that students occupy multiple subjectivities that are, at times, contradictory. I go on to expose the circumstances under which discourses (re)position students as more or less powerful in particular contexts and situations. An analysis of the data reveal students to be disadvantaged (and some more than others) as a result of navigating these competing subject positions. This finding is important as it adds further complexity to existing

research (Leathwood and O'Connell, 2003; Read et al., 2003; Reay et al., 2009a; Burke et al., 2017; Jack, 2019) that indicates working class, mature students on normative three-year degrees at public sector HEIs are disadvantaged by (and within) the HE system. Thus, when a female, BME, working-class mature student in this study discussed a two-year undergraduate Law degree at the Langham Institute disadvantage was felt to multiply. This intense, multi-layered disadvantage raises important social justice questions that directly challenge the normative 'one size fits all' model of the student as consumer, partner and/or investor. It asks who gets to be a consumer, a partner or an investor, and with what implications?

Before analysing the interview data, I offer a contextualisation by mapping the wider political economic framework in which this study is located. This requires attending to the effects of globalisation, neoliberalism, marketisation and the economisation of (higher) education. The broader context then allows dominant constructions of 'student(s) as consumer, investor and/or partner' to be unpacked and problematised. This is done in order to unsettle and trouble taken-for-granted assumptions that appear common sense and reasonable. Unsettling the related and interwoven discursive constructs of student as consumer, investor, partner is achieved by undertaking a Foucauldian informed discourse analysis. This allows the research to contribute to existing and ongoing debates about students in HE that are concerned to expose social injustices.

Contextualising the data

This chapter is located within the wider context of the political economy i.e. globalisation, neoliberalism, marketisation and the economisation of (higher) education. As charted in chapter two, the various ways that HE students have been constructed is shaped by significant trends and developments in educational policy i.e. the economisation of education (Tomlinson, 2005; Beckton, 2009; Neary and Winn, 2009;) and, in turn, the marketisation of education (Ball 1990a; Le Grand and Bartlett, 1993; Lynch, 2006; Brown and Carasso, 2013; John and Fanghanel, 2016) via notions of competition and choice (Brighouse, 2000; Apple, 2005; Butler et al., 2007; Bunar and Ambrose, 2016).

This is particularly in relation to the 'student as consumer' and 'student as investor' discourses, both of which are characteristic of a neo-liberal (Giroux, 2013), and post-welfare (Tomlinson, 2005) state. Through a student as consumer or investor discourse, students are positioned as individualistic, instrumental, superficial, passive and agentless. Students are constructed in this way within a number of powerful documents and institutions. As mentioned in chapter five through an analysis of powerful documents

that include national educational policies, institutional policies/local practices, and media texts, this framing has become the dominant discursive construction of the contemporary HE student.

As highlighted in chapter five in relation to national policy, Government has not articulated notions about 'the student' in an isolated vacuum. National policies are invariably framed within the wider context of globalisation (Ball, 2008). Consequently, educational policies are influenced by the policies of other countries and policies from supra-national regions (ibid.). Nation states globally '*transfer and borrow*' national and regional policies to the extent that many national educational policies show a significant resemblance throughout the world (Ball, 2008, p.11).

Chapter five documented that in order to depart from the unflattering construction of students as consumer or investor, some commentators (e.g. Neary and Winn, 2009; Healey et al., 2014) have argued that students ought to be (re)imagined more positively. As a form of bio-power (Foucault, 1984) the imperative should be for universities (rather than students) to reconstitute themselves so that they are genuinely engaged in the co-construction of knowledge with their students (ibid.). Following this logic, it is the responsibility of universities to change from within in a bid to re-construct the academy (Nearey and Winn, 2009; Burke et al., 2017; Jack, 2019) so that students can be regarded as co-producers. Accordingly, a newer construction has emerged in recent years, through a 'students as partner' discourse (Nearey and Winn, 2009; McCulloch, 2009; Carey, 2013; Healey et al., 2014; Tomlinson, 2016). Acting counter to the prevailing consumer or investor discourse, 'students as partner' draws upon a social constructionist paradigm (Neary and Winn, 2009) – aligned to the philosophical underpinnings of this research.

Via a 'students as partner' discourse students are positioned as powerful, active agents in their own learning and university experience overall (Healey et al., 2014). Together the student and the academic produce learning and teaching in ways that enable both to agentically contribute to the co-construction of knowledge (Neary and Winn, 2009; Nilsson and van Driel, 2010, Healey et al., 2014). However, when universities draw upon the 'students as partner' discourse questions might be asked of its authenticity. For example, to what extent can students be a genuinely equal partner in teaching and learning by co-designing the curriculum when assessment still rests with the academic? This problematic 'partnership' can also extend to '*institutional governance, quality assurance activities, research strategies and policies, estates, community engagement, and other extra-curricular activities.*' (Healey et al., 2014, p.12). In theory, at least, 'students as partner' is principally concerned with cultivating an ethos that encourages

student engagement (Healey et al., 2014), as specified in chapter two. Moreover, engagement is one way in which 'the student experience' has been theorised.

'The student experience' is also conceptualised in terms of student satisfaction and this is measured nationally via the National Survey for Students (NSS). The NSS results are then often appropriated by HEIs to market 'the student experience' at their institution to prospective students. These national and local practices are significant since, apart from amounting to a form of bio-power, they reinforce 'student as consumer/investor' discourses and weaken 'students as partner' discourses, which become so entrenched in HE thinking and practice that they are difficult to displace and problematize. Indeed, a marketing document embedded within the Langham Institute's website claims that the Langham Institute's *'performance in student satisfaction in the NSS has improved year on year'* and that the NSS *'High performing areas of student experience are: teaching on my course; learning opportunities; assessment and feedback; and learning community.'* It is perhaps therefore unsurprising to find accounts in this research (illustrated below) of students variously embracing, challenging and navigating discourses of student as consumer, investor and partner and (by implication) questioning where the traditional discourse of 'student as learner' has gone.

Collectively the policies, practices and discourses sketched out above have the effect of regulating the social body and can be understood in terms of an emerging governance (Foucault, 1977). As observed in chapter three, for Foucault (1977) as populations grew in the West a different way for a state to control and govern its people emerged. For Foucault (1984), this was through bio-power. According to Foucault (ibid.), bio-power operates at two interrelated 'poles': micro and macro. At the macro level, the state attempts to control and regulate the macro body by targeting its population(s). Bio-power has the aim of gaining knowledge/power of the population (including, for example, HEIs and its students) and is illuminated by the practices of the state (e.g. its educational policies). In consequence, HE policies that refer to students as partner, consumer and/or investor have the (un)intended consequences of governing and controlling HEIs and (in turn) its students. One consequence is in relation to (mis)'*connaissance*' (Lumb and Burke, 2019), which I discuss below in more detail.

The HE student population in the UK has grown significantly since the 1990s (Leathwood and Hayton, 2002; Reay et al., 2009a). As a result of widening participation policy discourses (and to some extent social mobility) there is now an increased number of students (including non-traditional) attending university in the UK (Leathwood and Hayton, 2002; Burke et al., 2017). Arguably, control over the whole of the HE body has

become necessary because the state has recognised that HE has become more expensive to the public purse (Leathwood and Hayton, 2002; Thornton, 2012). Government (and regulators) therefore have an interest in problematizing various parts of the HE-sector through its policies and reforms. A prevailing fabrication is that HE is not diverse: there is limited choice in HE delivery and of HE providers (BIS, 2011). HE teaching is a 'poor cousin' to research (BIS, 2016) and there is inconsistent quality of (Law) degree qualifications (Best, 2017) and poor quality in the teaching of those qualifications (BIS, 2016). Thus, using technologies of observation (through the student/parental 'gaze' and other universities via neo-liberal competition), normalising judgments (including using NSS scores and university league tables) and examination (including external validation regimes from e.g. the TEF and the REF) the state is able 'to train' HEIs to self-regulate. This can be seen by HEIs creating new ways of delivering degree qualifications including two-year fast-track undergraduate degrees; and private HE providers aiming for degree awarding powers and university status, to ensure the cost to the public purse is reduced through state-backed loans.

A turn to bio power (Foucault, 1984) at the micro level runs through HEIs and the media (as mediums of bio/power) controlling and regulating the student population, via disciplinary power. Chapters three and six outlined micro forms of power as it is exercised by institutions which target individuals, and have the (unintended) effect of gaining knowledge/power about and over students. It is evidenced by the discourses and discursive practices of institutions (e.g. 'the student experience', delivering 'intensive' two-year undergraduate degrees, HE teaching and assessment practices, the content of HEIs website and how the media constructs students).

The discourses of students as partner, consumer and/or investor can be illuminated by Foucauldian theory (which I go onto to do later in this chapter). For now though, I attend to a project of deconstructing the discourses in order to both unpack and problematize them.

Unpacking and problematizing 'student(s) as consumer/partner/investor'

All three discourses are poetic in the sense that each draws upon a metaphor i.e. students are like another (unrelated) subject/object. For that reason, each fiction is entwined with '*the political*' that pervades them (MacLure, 2003, p.82). In the current HE system, the student body is extremely diverse (Sabri, 2011; Burke et al., 2017). Therefore, who gets to be a consumer, partner, investor, and to what extent is unevenly

shaped. To consume, to contribute as a partner, and to invest in HEIs remains the preserve of those with an abundance of financial, temporal and practical resources i.e. the normative, white, middle-class, young, dependent-free, male student. So, it is those students with the money, time and cultural knowledge about how to take up these subject positions that are enabled to assume positions of power within HEIs. Conversely, BME, female, working-class, mature students are positioned differently. For example, a female, working-class, mature student with childcare commitments does not fit the construction of an all-powerful/knowing 'partner' and so is unlikely to occupy similar positions of power. The time required to actively engage in institutional governance, quality assurance activities, and other extra-curricular activities (Lehmann, 2012b; The Paired Peers Project, 2013) tends not to be available to them. The social justice issues raised by this disadvantage raises a question about precisely who gets to be a consumer, partner or investor. Each of these discursive fictions contribute to a 'one-size-fits-all' form of HE that systematically contributes to dis/advantage for certain groups of students; especially Othered students, on Othered courses at Othered institutions.

Positioning students as consumers, partners or investors generates other unintended consequences which place them in compromised ways. Where a student is dissatisfied with the localised arrangements (of being a consumer, partner or investor) grievances about degree studies are to be taken up directly with a HEI and, not the Government. By localising the relations of power the student as consumers, investors and/or partners are recognised as *entitled* and so have *rights* to declare their dissatisfaction. As a form of hegemonic misrecognition (Burke et al., 2017), or (mis)'*connaissance*' (Lumb and Burke, 2019) students are expected to pursue their objections with their service provider or other contracting party. Yet Government, some have argued (e.g. McGettigan, 2013), has mismanaged taxpayers' money to the extent that students pay £9,250 for university tuition fees in England. The unintended effect can be linked to the 'local' versus 'global' divide pervading legislation, including The Localism Act which was introduced the year before tuition fees were raised to £9,000 (in 2012). Framed by neoliberal logic, the statute encourages us all to 'solve' private 'problems' locally, rather than reaching out to the state (Williams, Goodwin and Cloke, 2014). This leads students to accept 'their lot' without any effective or meaningful protest. It also alters the relationships between students and university staff.

Another absence in each of the three discourses is the 'voice' of the university academic, which in effect becomes completely silenced. Drawing upon the work of Sabri (2011) who asks: '*what's wrong with the student experience?*', I put one of her arguments to work to

problematize the discourses of student(s) as partner, consumer and/or investor. Whilst constructing students as either consumer, partner or investor appears to give students 'a voice' they simultaneously work to silence other voices (e.g. academics). In effect a lonely student 'voice' operates in an isolated vacuum, which effectively constrains other students' 'voices' (Sabri, 2011). Related to 'voice' is 'student choice'; one of the hallmarks of the 'student as consumer' discourse, in the literature, is that of 'choice maker' (Thornton, 2012; Brooks et al., 2016). But what choices do students really have? Borrowing from Vander Schee (2009), 'choice' is often quite limited since Governments commonly present a particular discourse e.g. (higher) educational standards as 'a problem'. In the short term, this is done to justify the need for more competition and choice which is believed to raise standards. HEIs and individuals 'buy into' being an ideal 'body' and the bodies (at macro and micro levels), become self-regulating by making behavioural 'choices' in order to develop an idealised body. But ultimately, Governments problematize social issues (e.g. educational standards) in order to govern and control society. Hence, for any student (i.e. consumer) 'choice' effectively amounts to no choice at all.

'Choice' is also connected to the construction of the 'investor' student. Investors (in the commercial world) are understood to invariably take a calculated risk in not achieving a return on their investment. When this logic is applied to the 'student as investor' discourse, a moral dilemma emerges. Firstly, should education be viewed as a commodity that can be bought and sold? And secondly, is it ethical to expect students to engage in risk taking with their own funds? Chapter two outlined the body of research showing that non-traditional students are more risk averse than traditional ones (Archer and Hutchings, 2000; Clayton et al., 2009; Devas 2011). This has been supported more recently by assertions that a major reason for a decline in part-time students (since 2012) is that they are inclined to be older. Accordingly, they tend to already possess large amounts of mortgage-debt and are more risk averse when contemplating taking on further loans for HE study (Callender and Thompson, 2018).

The recognition of student diversity, noted above, is significant in another sense also. It is noticeable that 'student' in 'student as consumer or investor' is framed as a singularity. The framing implies that there is only one type of student (who is or can be a consumer or an investor). Therefore, what at first appears to be a minor silence actually speaks volumes. The silence becomes a form of raced, gendered, and classed blindness (Burke et al., 2017). In order to avoid this form of absence, the discourses should be constructed in the plural.

By contrast, the 'students as partner' discourse recognizes the tension. Despite this though, it is not unproblematic. In chapter five, I argued that the use of the word 'partner' is persuasive in that it has an element of intertextuality attached to it. It powerfully presses upon us its '*bid for believability*' (MacLure, 2003, p.82) because it is used in the commercial and retail world. 'Partner' is powerfully convincing in that it carries the '*scent of an institution*' (ibid., p.82). By drawing upon the business world, and in particular the legal profession where most Law firms are organised as partnerships, it is persuasive to (re)imagine (Law) students as 'partners' in the making. However, institutionally the legal profession is elitist, and research shows that the power relations within Law firms are unequal. At partnership level, Law firms are classed, raced and gendered (Francis and Sommerlad, 2009; Sommerlad et al., 2010; Tomlinson et al., 2013; Budd, 2017) in that those who get to be a partner tend to be white, middle-class, men (Ashley, 2010; Sommerlad et al., 2010).

In a similar vein, the discourse of 'students as partner' is problematic in that it implies equality between students and the academy. The chances of an equal partnership in HE is unlikely because academics tend to 'Other' their students through double standards (Castiglione, 2018). For example, academics often exhibit practices similar to their students e.g. missing deadlines, and a reluctance to take on extra responsibility yet '*[w]hile staff's shortcomings are conceptualised as stress-related, students' shortcomings are because they are disorganised and disengaged*' (ibid., para. 5). The notion of a genuinely equal partnership between academics and students seems fanciful. Despite the origin of 'partner' stemming from the Latin word '*partitionem*' which when translated means '*a sharing, partition, division, distribution*' (Roget's Thesaurus, 2013) – the sharing of the benefits of being a partner (in both the legal profession and the academy) seems to be impossibly unequal.

Examplifying some of the data

This section presents an analysis of the voices of the student participants and so offers a sense of (dis)connection from the views and practices of Law tutors. As indicated in chapter three, 'intersectionality', as proposed by Crenshaw (2009), enables this study to attend to the complexities of the ways in which the social class background and age of a fast-track Law students intersect with 'race'/ethnicity and gender to produce dynamic and constantly shifting identity formations.

'So, when wrongs are happening, I like to fix them' – negotiating and resisting 'consumer'

Bob spoke about his Law degree at the Langham Institute in a number of ways but mainly through discourses of student as 'consumer' and 'investor'. He took up a fluid and contradictory mix of subject positions (aligned to the policy documents in chapter five). This resonates with Foucault's *Archaeology of Knowledge* (1972, p.17) when he writes: *'Do not ask who I am and do not ask me to remain the same'*.

Bob talked about his decision to study Law on the 'fast-track' at the Langham Institute by initially drawing upon a 'student as consumer' discourse. He thought that the Langham Institute was *'a good option'* as he wanted to start his LLB in the month of June and sought to pay only two years' worth of tuition fees. Bob's consumerist discourse was narrativized further when he expressed his views about the Langham Institute as an organisation. He thought that *'nothing was ever perfect in life'* and that he would rate the Langham Institute as *'a three (out of five) star institution'*. This discursively positioned Bob as relatively powerless and in particular no more than a provider of feedback, albeit a financially-aware one. It thus reinforces his position of relative disadvantage as a working-class mature student within HE. Notwithstanding this discursive positioning, Bob was also powerful in the sense that he was able to negotiate the consumerist discourse.

By exercising a certain degree of agency, Bob negotiated his subject position of feedback provider by drawing upon a 'student as investor' construction. He articulated his reasons for studying the 'fast-track' degree, at the Langham Institute by framing them in terms of a common-sense *'time is money'* narrative, which signalled he was acting as a rational choice-maker based upon a sound economic justification i.e. as 'student as investor'. However, the 'student as investor' fiction rests upon an assumption that a two-year undergraduate degree will actually save a student money, in terms of tuition fees and maintenance costs. Yet, Robert (Male, 35, WE) identified a tension when he claimed that completing within two years was only *'a half-truth'*. Indeed, Bob had failed some assessment modules and therefore was not able to complete within two-years. He had to bear the burden of paid work commitments, which is a typical characteristic of working-class (mature) students studying at university (Reay et al., 2009a, The Paired Peers Project, 2013). Further, and as detailed in chapter two, the potential cost savings for a student studying on a fast-track degree are short lived. The HERA, 2017 has provided that public sector universities can charge (from September 2019) a tuition fees uplift (up to £11,100 per year) for accelerated modes of study (Boyd, 2017). However, as a result of the Augar Review (2019) the uplift may not be as large as initially contemplated.

Elsewhere in his interview Bob actively resisted the 'student as consumer' discourse via a counter-discourse when he spoke about Law as a subject discipline. He indicated that he regularly puts to work his legal knowledge to resist the demands of certain powerful organisations (including the Langham Institute) which he encountered frequently. He mentioned that he disliked unfairness and thought that this sensibility had stemmed from his childhood when witnessing the unequal gendered power relations between his parents. He said:

...during my study here in the UK I have been always bombarded or attacked by different companies, either if it's like mobile contract... if it's contract with my university because I have to dispute it myself... well, I was already studying for a Law degree...Because normally people will just say, oh I can't be bothered. But I always said, no, it matters, you have the right...or what they're doing to you is wrong. So, when I see something... I do not like things that are done to somebody in a wrong way. So, if somebody is accused of something which he or she did not do - I just don't like it. Or if, let's say the man is mistreating a woman, maybe like my father did to my mum, I just don't like it either because it's not right. That's not the way that things should be. I just don't like the wrong things to be done. So, when they are happening, I like to fix them. And, for me, to get the knowledge from Law degree is a good thing. **(Extract 7.1: Bob, Male, 28, WE)**

Bob's words imply that he does not use his legal knowledge superficially (arguably a signifier of consumerism). He momentarily (re)positions himself powerfully and in Foucauldian terms, Bob uses his legal knowledge as a means of subversion. According to Foucault, '*...knowledge is not made for understanding; it is made for cutting*' (Foucault, 1984, p.88) and '*cutting*' for Jackson and Mazzei (2012, p.61) can constitute '*resistance and criticism*'. In this sense Bob uses his legal knowledge to resist being '*bombarded or attacked*' by commercial organisations (e.g. the Langham Institute). He also uses it to criticise his father about how he mistreated his mother. There is a link between Bob's knowledge/power as '*a practice in operation within a discursive field*' (ibid., p.62) producing a fluid subjectivity for him. As a working-class man in his late 20s, there is a hint that Bob is narrativizing an heroic working-class, male discourse (Part, 2016) in the way he makes sense of his Law degree and his (present and past) life experiences. Of course, there might be other interpretations. Bob's heroic construction momentarily

shapes his positionality into that of citizen with integrity (*'I just don't like the wrong things to be done. So, when they are happening, I like to fix them'*). Bob's subject position of working-class, male hero thus transiently alters his overall discursive position from that of relative disadvantaged working-class, mature student (of Law at the Langham Institute) to an all-powerful and positive 'consumer and investor' student within HE.

Negotiating 'Consumer' – you have to be clever to study a hard subject like Law

Stacey recalled aspects of her Law degree by drawing upon a 'student as consumer' discourse in various ways. She initially played with 'consumer' when she talked about Law in a passionate way (*'Law?...I love it'*, she professed) and then believed that Law was *'for her'* because she had been *'excelling'*; excellence and excelling is one of the hallmarks of a 'student as consumer' discourse:

....and from the start I've been doing really well, which is the other thing that made me think, you know what, yeah, so probably this is the course for me 'cause I've been excelling. (Extract 7.2: Stacey, Female, 28, BME)

To some extent the consumerist discourse that Stacey draws upon positions her as relatively powerless and passive. As a working-class, black woman (in her late 20s) studying on a fast-track degree at the Langham Institute she is already 'doubly disadvantaged' (Jack, 2019). Her concern with 'excelling' discursively implies that she is primarily concerned with achieving high grades rather than an interest in the acquisition of legal knowledge for its own sake. This instrumental concern to prove herself through measures of accountability and performance actively position her as less powerful within the realms of HE and the legal profession. It is not merely a quantified qualified self that counts.

Another interpretation of this data is in direct conversation with previous empirical research. As outlined in chapter two the strategies that non-traditional students used to increase their sense of belonging by using *'alternative discourses'* was identified by Read et al., (2003, p.261). The authors concluded that 'student as consumer' was used by students as a form of counter-discourse via resistance to the power imbalance in the academy. My research indicates that 'student as consumer' is utilised by students more overtly. One possible explanation for this difference is that Read et al's work is perhaps

historically specific; in 2003, students were paying £1,000 for tuition fees and the policy landscape was very different. In the intervening 17 years much has changed. HE policy has become more marketized and HE tuition fees in England have increased significantly to £9,250 (currently). A situation that has witnessed students drawing upon consumerist discourses more readily and exerting their 'rights' as fee paying consumers of HE.

It is unsurprising that Stacey deploys consumerist terms when recounting her university experience. The language of consumerism in HE is pervasive and persuasive, as evidenced in chapter five through an analysis of policy and media documents that frame students in particularly narrow ways. It is unsurprising also that Stacey reflects back the language used by her Law tutors, who also spoke in consumerist terms. Frances (Female, 61, WB) was an example of this. In response to a question on what Frances thought the purpose of education was, she said that it was to broaden students' horizons and to expose them to concepts, ideas, and experiences. Crucially though, it was also to give them '*choices in life because people have fewer choices when they are not educated*'.

Nevertheless, Stacey subsequently negotiated her consumerist construction by drawing upon discourses of ability and standards. She considered students needed to be 'clever' to study a 'hard' subject like Law. This has the effect of re-positioning Stacey as powerful and knowledgeable about her subject area and in particular as a 'bright' Law student:

So when I started my Law degree, I was doing... you know, pretty well in my assessments, my assignments ...and which has sort of given me... OK, so if I can do well and considering people say Law is hard, then I must be <chuckles> I must be...

Stuart: *Pretty good?*

... must be doing pretty good. So that feeling that I was doing well in a programme that people say is hard gave me that desire to continue and to strive to be in it and keep on maintaining the grades that I was getting and doing even much better (Extract 7.3: Stacey, Female, 28, BME).

She draws upon a common-sense narrative that is often rehearsed about Law i.e. a student must be 'clever/bright' to study it. As an educator of Law (with a professional

background of working in legal practice as a solicitor), my view is that this narrative is a distorted fiction. I argue that Law is no more difficult than other subjects and arguably is less challenging compared with abstract subjects like philosophy. Given that many undergraduate Law degrees in the UK no longer teach subjects like jurisprudence¹⁸ (Thornton, 2012) and the Langham Institute has never taught it, the common-sense storyline is problematic.

A discourse of ability is both classed and raced (Gillborn and Youdell, 2000; Leathwood and Hayton, 2002; Burke and McManus, 2011) in that far fewer working-class, black students in the (higher) education system are viewed as 'able' which for Gillborn and Youdell (2000) is another way of saying 'clever', 'intelligent' or 'bright'. In this sense, the (higher) education system works against working-class and/or BME students (Gillborn and Youdell, 2000; Reay et al., 2005; Perry and Francis, 2010; Burke et al., 2017) because (among other things) ability is seen as a determinant of attainment (Gillborn and Youdell, 2000). A standards discourse when applied to Law is gendered particularly when focussed on the academic division between 'hard' subjects (e.g. Law) and 'soft' subjects (e.g. nursing studies). This is because Law as a subject discipline, as mapped out in chapter two, is closely connected with a legal profession which is extremely stratified. The segmentation of the legal profession is gendered (and raced) in that female lawyers tend to work predominantly in areas such as residential conveyancing, personal injury, and matrimonial work. Very few women work in commercial Law which tends to be dominated by white men (Sommerlad et al., 2010).

In drawing upon a 'discourse of ability and standards' to make sense of her Law degree Stacey misrecognises that it in fact works against her interests as a working-class, black, woman (in her late 20s).

Be(com)ing an 'agentless Partner'

But not all students were invested in consumer discourses. As one of several examples, Magda spoke about her Law degree at the Langham Institute in a way that initially drew upon a discourse of 'students as partner'. Magda contended that her Law tutors were knowledgeable and informative in class but it was the self-learning she did at home that was vitally important:

¹⁸ Jurisprudence is the philosophy of Law

Well, since I haven't been in another institution for a while I think maybe in terms of Law it's probably good, and the teachers I think are quite good, they're quite good at answering questions, but obviously I do a lot of self-learning at home anyway (Extract 7.4: Magda, Female, 24, WE)

Hence, Magda talked about her studies in terms of co-learning with her tutors, rather than learning independently. I read this as Magda being a co-constructor of knowledge – which (informed by some of the literature in chapter two) is a hallmark of a 'students as partner' discourse. But later in the interview Magda resisted this by drawing upon a discourse in relation to 'student as consumer' which acted as a counter-discourse. She explained that the Langham Institute was not good at communicating with students:

....the Langham Institute needs to be better in its communications with us maybe. With things like that, they're not great, but I try not to complain too much. (Extract 7.5: Magda, Female, 24, WE)

And so, even though Magda implies that she does perform 'consumer' through occasionally complaining, she consciously avoids being consumer-like by trying '*not to complain too much*'. In extract 7.4, Magda positions herself in an active/positive and powerful way. In particular, she positions herself as a Law student who is collaborative, considered, and operating with a certain amount of agency. However, in extract 7.5 Magda positions herself in a less powerful way when she negotiates her discursive positioning with a concession that she does in fact draw upon a student as consumer discourse. Magda thus re-positions herself as an agentless partner; as hybrid of powerful (partner) and less powerful (consumer) Law student. This apparent paradox can be illuminated by attending to Magda's intersecting identities. As a white person, she occupies a position of relative power within HE and society generally. But as a working-class, single mother, originally from Eastern Europe, she occupies intersecting positions of powerlessness. She, therefore, momentarily ceases to be an all-powerful white student-partner because her other identities close this down as a possibility.

Magda's overall re-positioning as 'agentless partner', was also aligned to her current familial circumstances. This too was marked out by ambivalent positions of power/lessness. Elsewhere in the interview, Magda spoke about the slightly more affective aspects of being a 'student parent' (Moreau and Kerner, 2015). A sense of

powerlessness constrains her life which she articulates via a discourse of shame (Leathwood and Hey, 2009; Ahmed, 2014; Abrahams, 2017) in relation to being a single mother: *'experiences of shame are intimately connected to gendered, classed and racialised identities'* (Leathwood and Hey, 2009, p.437). Yet, Magda proclaimed that she had 'chosen' to study for a Law degree partly to avoid the stigma of being a young, single mum - particularly because she felt that her wider family was judging her. 'Choosing' to study for a Law degree can be theorised through a discourse of respectability (Skeggs, 1997) as a means to resist deficient feelings of shame bestowed upon her by a connected discourse of lone motherhood (Carabine, 2001; Golding, 2015).

In consequence, Magda's structural circumstances indicate that she was disadvantaged more than others in her group. Her data also raises a key question: who gets to be an all-powerful partner? This, I will discuss further below and in chapter nine.

Negotiating 'Partner' - as a vehicle of power?

Michael constructed his student experience through discourses of 'student(s) as partner/investor'. But what came through powerfully was his alignment to a 'students as partner' discourse. At the time of being interviewed Michael had already completed his degree. He spoke about his degree result (an upper-second) being very much a joint effort between him and his tutors. In response to a question: 'so how did you experience your Law degree?', he said:

I enjoyed it, I think on the whole it was a good use of my time. I thought 'I came to do something'. Fortunately, I was able to do that. I got a 2:1... but I thought not only was it because of me, but I thought, as I said, the staff really did try to help and I think that's really useful.
(Extract 7.6: Michael, Male, 28, BME)

In addition, and in relation to his student experience more generally, he said that staff-student relations were equal and non-hierarchical:

I know the staff, and this maybe had something to do with the contact we get to have with them, you get to develop genuine relationships with the staff, so it's not so kind of, I don't know, hierarchical, you can have a chat with a teacher and they'll explain stuff to you and help you. I think when you have that rapport with somebody it's easier to

understand and you feel more comfortable participating as well, because there's not that whole thing of looking like an idiot, you feel comfortable to try and fail and in doing that you're more likely to succeed. (Extract 7.7: Michael, Male, 28, BME)

Michael thus presents as an active agent of his own learning (*'I came to do something'. Fortunately, I was able to do that'*) and student experience. Like Magda, he also identifies as a co-constructor of knowledge (*'I got a 2:1...not only was it because of me...the staff really did try to help'*). Elsewhere in the interview Michael also talked about being involved with extra-curricular activities (*'I got involved with the student Law Society at the Langham Institute and, in fact, I set it up with one of my peers'*). This discursively positions Michael as powerful and positive and, in particular, as almost ambassadorial operating with a high-level agency.

But what is noticeable with Michael is that the 'students as partner' discourse aligns him with his tutors (i.e. powerful agents of the Langham Institute) whereas Magda aligns herself with her peers. Michael implies that he has a more powerful 'partnership' with his Law tutors compared with Magda's less powerful one, with her peers. One set of structural circumstances that may illuminate this is that Michael identifies as male and is free of childcare responsibilities whereas Magda identifies as female and is a single mother. Relative to Magda the fewer structural constraints Michael has highlights the reason he was able to participate more readily in extra-curricular activities (*'I got involved with the student Law Society'*) while Magda was not. Students predisposed to do extra-curricular activities at university are those who are positioned with power (Lehmann, 2012b; The Paired Peers Project, 2013), including male students without childcare responsibilities. In this sense, therefore, 'who gets to be an all-powerful student/partner' appears to be gendered, which is a reflection of the gendered (classed and 'raced') nature of the legal profession, particularly at partnership level (Francis and Sommerlad, 2009; Sommerlad et al., 2010; Tomlinson et al., 2013; Budd, 2017; Floyd, 2019)

Interestingly, even though the 'students as partner' discourse aligns Michael with his Law tutors this was not discernible in the tutor interview data. Even though the tutors spoke about the students in consumerist and investor terms they did not refer to students in terms of partnership. This silence can be put to work as a means to advance understandings of how HE operates on students. The Law tutors' collective silence in framing the students 'as partners' is significant when silence is interpreted as resistance. On the issue of resistance, Foucault (1978, p.96) argues:

...there is no single locus of great refusal, no soul of revolt, source of all rebellions, or pure law of the revolutionary. Instead there is a plurality of resistances, each of them a special case: resistances that are possible, necessary, improbable; others that are spontaneous, savage, solitary, concerted, rampant, or violent...

Here, Foucault is claiming that there are various ways that a subject or the social can resist the power embedded within discourse e.g. a 'students as partner' discourse. Each form of resistance is unique. Some resistances are more likely than others while some are needed for individuals to function. Further, some resistances are done alone (in a solitary way) while others are performed together (e.g. by a cohort of Law tutors). Given that some can be done violently, by implication this suggests that some resistances can be displayed gently. Thus, gentle silence can be resistance which in this instance appears to be a collective (silent) resistance.

When Michael was questioned about the factors important in assessing student experience he drew upon a 'student as investor' discourse, which positioned him with less power. For Michael, his student experience was all to do with his peers (*'...a class can be really invested in things'*). For him, this related to interpersonal relationships amongst his peers, the (dis)interest of a class, and the level of participation within a group. The student as investor discourse was reinforced when Michael spoke about not enjoying 'A' Levels at sixth form college. At the time, he thought that he was not *'particularly invested'* in his 'A' level studies. Some of the Law tutors in this study also constructed their students' experiences via a 'student as investor' discourse; Sidney (Male, 46, BME) was an illustration of this. He thought that many of the Law students at the Langham Institute *'may think that they are investing their time and money to become a solicitor. But even if they get through, they will not work in the bigger and better firms – maybe the CPS, if they're lucky'*. In view of that, Sidney like the other Law tutors is an agent of the Langham Institute. Following Foucault, the tutors are *'vehicles of [bio]power'* (Foucault, 1980, p.98) in that they are located somewhere between the Langham Institute and its student body. The tutors are (perhaps unwittingly) shaped by policy discourses (as specified in chapter five) which in turn shape their students' subjectivities. Perhaps it is little surprise that an alignment exists between the discourses charted in chapter five; the ways in which Sidney frames his students; and how Michael (and also Bob in extract 7.1) present their experiences.

Conclusion

This chapter has argued that working class, mature students in this study drew upon discourses in relation to student(s) as consumer, partner and investor; importantly it demonstrates the multiple ways in which the students were able to negotiate such discourses. All the students negotiated discourses of student(s) as consumer, investor and/or partner by drawing upon other discourses. This temporarily transformed their subject position(s) in complex ways. For example, Magda drew upon a 'students as partner' discourse which momentarily held the capacity to position her as agentic, powerful and in particular as a considered, collaborative and cooperative Law student. This was important as it demonstrates how discourses (re)position students, as more or less powerful. Magda was subsequently (re)positioned as powerless when she drew upon the 'student as consumer' discourse. This had the effect of fleetingly (re)positioning her as an 'agentless partner'. Hence, the working class, mature students in this study took up a contradictory and fluid mix of subject positions and discursive subjectivities. This can be explained in part by the ways in which some of the powerful policy, media and institutional documents (analysed in chapter five) presented particular narratives about the enterprising, neo-liberal HE student. Such messages from policy and media permeate the everyday practices within the Langham Institute and become absorbed and deeply embedded in the very fabric of a fast-track Law degree. These discourses could also be detected in the accounts offered by some of the Law tutors interviewed, who effectively became 'vehicles of [bio]power'.

The data also show *when* the discourses of student as consumer, investor and/or partner (re)positioned students as powerful or powerless. In some instances this challenged the ways in which students are often constructed in the literature. These other structural circumstances indicated that some working-class, mature students in this study were disadvantaged more than others. I have argued that the powerful subject positions flowing from an implied effect of the student as consumer, investor and/or partner discourses were gendered and 'raced'. Which raises important questions about who gets to be consumer, partner and/or investor. This is more extensively debated in chapter nine and identified as an area of possible further research.

Given that Law as a subject discipline, as mentioned above and elsewhere in this thesis, is closely connected with a legal profession another question is generated regarding the extent to which working class, mature students in this study draw upon, resist and

negotiate discourses connected with the (legal) workplace. This question is debated in the next chapter which specifically attends to employability discourses.

Chapter 8: Identifying and problematising discourses that construct the fast-track Law student at the Langham Institute as employable

Introduction

This chapter provides an analysis of discourses of employability which were important to the students in this study as a way that they made sense of their student experience. A number of questions arise from the facts that Law, as a subject discipline, is related to an established (elite) profession; a fast-track degree potentially allows the students to get into the workplace sooner; and private HEIs tend to prize themselves on offering cost-effective (vocational) degrees related to the workplace. Central to the purpose of this chapter is the question: to what extent do the students in this study draw upon, resist and negotiate employability discourses about their degree, Law and/or the Langham Institute? Like 'the student experience', notions of employability have become another '*sacred utterance*' (Sabri, 2011, p.567) within HE. It has been like this for some time and certainly since the 1990s in the UK, with the onset of widening participation (Moreau and Leathwood, 2006a). Thus, university students are encouraged to increase their chances of getting a job.

But, despite this, there is no research that deals with the '*function and effect*' (Osgood, 2012, p.35) of discourses of employability on working class mature students in how they make sense of their two-year undergraduate degree in Law and/or at a private HEI. This chapter attempts to fill the gap. I unearth some of the functions and direct effects of employability discourses on the students in relation to '*the affective*' (Ahmed, 2014, p.28), implied discursive positioning, resistance and negotiation of those discourses. I do this by highlighting how the study participants articulated thoughts about their fast-track degree, subject choice/Law, and/or the Langham Institute in relation to the legal workplace/getting a job.

Analysis of the data suggests that discourses of employability (particularly in relation to Law as a subject discipline) position students in this study as even more powerless than they are already within HE. In view of that, injustice is multiplied for them. The significance of this is that 'employability' is thus rendered hegemonic in that it encourages working class mature students devoting time to '*cultivate the self*' – yet, this is a tad hollow. It also encourages working class mature students to think that if they do not get a relevant and meaningful legal job, then this must be a personal failure and not shaped by social forces

and identity markers in relation to social class, age, race, and gender. Consequently, injustice is multiplied for the students in this study. Considering non-traditional students experience disadvantage within HE, I argue that this is doubled when they study on an (Othered) fast-track undergraduate degree at an (Othered) private HEI. And so, when non-traditional students on 'those courses' at 'those places' are subject to discourses of employability, they are (re)positioned as even more powerless than they are ordinarily – to the extent that the students in this study become triply disadvantaged.

This chapter begins by offering an outline of the social construction of 'employability' discourses and how they have become taken for granted, common-sense 'truths' in contemporary HE contexts. This requires that the emergent findings from this study are contextualized in policy, institutional, media, and research terms. The context then allows discourses of 'employability' to be both problematized and deconstructed before examples from this study are offered. This is done in order to illuminate the fictional, arbitrary and contradictory nature of employability discourses and how, despite this, they still have the power to be harmful for the students in this study.

What is 'employability' and what does it look like?

Notions of employability, within policy discourse, implicates both HEIs and their students in processes of working together to ensure relevant and meaningful employment upon graduation. Universities are *'urged to ensure that they produce 'employable' graduates'* (Moreau and Leathwood, 2006a, p.305) while individual students are expected to be responsible for *'embarking upon additional activities that enhanced graduate 'profiles' and 'attributes''* (Tomlinson, 2016. p.161). In particular, this is done so that students can acquire transferable workplace skills such as teamwork and communication skills (Lehmann, 2012b).

It often constitutes undergraduates undertaking particular CV building activities and thus *'extra-curricular activities.... internships or volunteering are...seen as a means to boost one's employability'* (Budd, 2017, p.114). Employability activities can also amount to students mentoring others and also being mentored (e.g. by a professional in the workplace) themselves (Colley, 2003). Concurrently, universities are frequently seen to support students; encouraging students to be reflective; and helping students plan for their futures (Leathwood and Hey, 2009).

However, even before students start their degree studies, discourses of employability also encourage them to: 'choose' a 'vocational' degree subject (e.g. Law); on a fast-track basis; at a 'good' university evidenced by its position in the university hierarchy. But given that it has become a 'sacred utterance' it is important to excavate the legacy of 'employability' within the field of HE.

Policy and institutional context

Arguably, there is '*nothing new*' about employability (Colley, 2003, p.529), as it has been in use (in its various guises) since the early 1900s (Moreau and Leathwood, 2006a). Yet in the UK, because of significant '*transformations of higher education and the labour market*' (ibid., p.306) it has become a dominant narrative within HE. A significant policy transformation emanated from the Dearing Report, 1997; widely considered the political backdrop to widening participation (ibid.). Hence, as a result of widening participation, the academy has changed dramatically in the last 20 years and widening participation policies have shaped employability discourses (Hey and Leathwood, 2009). Transformations in the UK workplace have also emerged to the extent that there is no longer '*a job for life*' (Colley, 2003, p.526) but lifelong learning (i.e. learning new knowledge and/or skills) conversely is '*for life*' (ibid., p.526; Moreau and Leathwood, 2006a).

Chapter five illustrated how discourses of employability pervade government policy. For example, in '*Higher ambitions*' (BIS, 2009, p.40) 'employability' features as a central policy discourse. It claims that: '*Raising the level of employability of our graduates by ensuring they have the important generic skills in team-working, reasoning and communicating that are required for many modern careers*'. Similarly, in the *Browne Review* (Browne, 2010, p.28) 'employability' is repeated as a critical policy aim by stating that '*providing students with clearer information about employment outcomes will close the gap between the skills taught by the higher education system and what employers need*'. And more recently, discourses of employability are rehearsed in '*Success as a Knowledge Economy*' (BIS, 2016). But as discussed in previous chapters, national government policies do not operate in isolation. They get formulated as part of a wider international policy network. For instance, the EU's *Bologna Declaration* (Bologna Declaration, 1999, p.3) called for the adoption of a system of '*easily readable and comparable degrees*'...*in order to promote European citizens' employability and the international competitiveness of the European HE system*'.

Aligned with chapter seven, this chapter is also located within the wider context of the political economy i.e. globalisation, neoliberalism, marketisation and the contested purpose(s) of (higher) education. But it is also located within the wider policy trends and developments in relation to vocationalism, meritocracy, and the hierarchy of universities.

As noted in chapter two, HE (including Law schools) has become increasingly vocationalised (Thornton, 2012). It is commonplace for HE to now spend more resources on the students' acquisition of skills, vocational subjects and making students employable (Baker and Brown, 2007; Hinchliffe and Jolly, 2011; Jackson, 2016). Students are encouraged to study vocational (rather than academic) subjects i.e. '*employability-proof subjects*' (Tomlinson, 2016, p.152) e.g. Law, STEM subjects or other '*applied disciplines*' including business studies (Jones, 2018, p.1046). In addition, students and employers frequently draw upon hierarchy of university discourses (Tomlinson, 2005) and I argue that so too do university staff and the friends and family of students. To some extent governments, and the academy itself, attempt to normalise the hierarchy by drawing upon discourses of meritocracy (Young, 1971 [1958]; Goldthorpe, 1997; Morley, 1997; Leathwood, 2004) and discourses of ability (Gilbourn and Youdell, 2000) to justify its existence and the reproduction of social inequalities arising from it. One social injustice is that working-class, mature students are less likely to be employed in elite professions and, if they do, they are less inclined to be considered to possess merit or talent when they get there (Freidman and Laurison, 2019). Discourses of employability (as it relates to meritocracy and hierarchy of universities) function in a way that masks social injustices because they treat failure to get a job as an individual failure/deficiency rather than allowing people to recognise HE and the workplace structurally advantages those who are already advantaged (Moreau and Leathwood, 2006a).

Encouraging students to become more 'employable' has been shaped '*as an instrument of national economic development*' (Beckton, 2009, p.60) specifically, the development of (higher) education. Employability discourses have been both pervasive and persuasive within the academy, leading to the deliberate economization of (higher) education. Its persuasiveness emerged in the 1980s under the neo-liberal regimes of the Regan and Thatcher administrations (Giroux, 2013). As outlined in chapter two, the economic rationale underpinning HE has reinforced a conceptualization of student as consumer, which in turn, has fabricated HE students as investors. As Tomlinson (2016, p.163) stresses: '*HE is seen as an investment which aligns to one of the core goals students have towards participation, which is to enhance future employability*'. Most recently though, employability discourses have been shaped by a civic engagement rationale

which explains the emergence of the student as partner construct which is increasingly used to drive the employability agenda: '*being a student as partner in learning and teaching can enhance employability*' also (Healy et al., 2014, p.19). The interwoven and mutually sustaining nature of these three constructs have radically shaped student experiences of HE and how students come to negotiate their subjectivities.

Research context

A review of research literature in relation to 'employability' was restricted in terms of time, place and space. Only research since the 1990s, carried out in the UK and located at public-sector universities was included. Research from outside the UK was omitted as it was too expansive and would not have contributed to addressing the contextually specific goals of this study. However, I recognise that 'employability' is linked to neoliberalism which as a global phenomenon impacts upon employability issues in various geopolitical locations. The UK is especially shaped by neoliberal economics and therefore the findings from this research are likely to be of interest to other neo-liberal nations including the USA, Australia, New Zealand and Canada that share similar political and economic characteristics and HE systems.

The review exposes that which is known and not known about 'employability' in existing literature. By identifying gaps in this broad body of literature it becomes possible to conceive of ways in which this research can fill some of them. Gaps were identified by mapping inconsistencies, and appraising the underlying epistemological and ontological assumptions of existing research; hence the literature was grouped into five areas: employability and non-traditional students; non-traditional students' experiences of employability within HE; the extent to which non-traditional students draw upon and resist discourses of employability; employability and fast-track degrees; and employability and the legal profession.

Employability and non-traditional students

Research indicates that non-traditional students (including working-class students) are often constructed as lacking skills necessary for the workplace (Moreau and Leathwood, 2006a), as a consequence, non-traditional students are frequently imagined as deficient. Non-traditional students are generally found to study vocational degree subjects e.g. Law, business, management (Lehmann, 2009) at low status HEIs (Leathwood, 2004) e.g. at new universities/private HEIs.

Research on the employability prospects of non-traditional students (including working-class, mature students) shows that non-traditional students are less likely to get a relevant or high status job upon graduation compared with traditional students (Leathwood, 2004; Brown, Lauder and Ashton, 2011). This is aligned to the fact non-traditional students find it more difficult to take part in employability activities at university e.g. work placements (Francis and Sommerlad, 2009; The Paired Peers Project, 2013), extra-curricular activities (The Paired Peers Project, 2013), and unpaid internships (LETR, 2013). This is because non-traditional students often have less time due to either doing paid work during term time (Moreau and Leathwood, 2006b; Reay et al., 2009a; LETR, 2013) and/or that they have care commitments (Leathwood and O'Connell, 2003; LETR, 2013).

The research on the employability prospects of mature students is inconsistent. Even though one piece of empirical research (Woodfield, 2011) suggests that mature students' job prospects are better than younger students, most of the research (Moreau and Leathwood, 2006a; Francis and Sommerlad, 2009; Sommerlad et al., 2010; Ashley, 2010; LETR, 2013) indicates that mature students' employment prospects are in fact worse. Woodfield found that mature students are advantaged in the graduate marketplace for jobs on account of previous (pre-graduate) work experience with an employer. Woodfield's research concentrated on mature students where approximately half of the sample attended a pre-92 university whereas most of the other research e.g. Moreau and Leathwood's (2006a) focussed on mature students at a post-92 university. Hence, empirical research that draws upon the accounts of mature students from a pre-92 university is likely to find that they are advantaged in the job market by the status of their university, among other factors (Leathwood, 2004). Attending to a focus on students at newer universities demonstrates that:

non-traditional graduates [at a post-92 university] are at a disadvantage in seeking graduate employment - whether because they gained a degree at a post-1992 university or because of their ethnicity, gender, social class background, disability or age (Moreau and Leathwood, 2006a, p.319).

Non-traditional students' experiences of employability activities within HE

The imagined deficiencies of non-traditional students was a related theme to the ways in which employability activities within the education system were experienced. The research literature shows that employability activities for non-traditional students is mostly experienced within a wider context of student support (Hey and Leathwood, 2009; Best et al., 2011). Hey and Leathwood (2009) suggest that 'student support' is yet another mechanism by which non-traditional students are constructed as lacking, deficient and in need of 'fixing'. Mentoring is one such form of support frequently extended to students and whilst there is extensive literature about mentoring it is often presented as well-intentioned and devoid of politics. An exception to this is the work of Colley (2003). Whilst the prevailing wisdom about mentoring views it as an effective means to support non-traditional students to increase educational engagement and employment prospects, Colley (2003) found that mentoring intends to transform the non-traditional student habitus to become more middle-class. Since middle-classness is revered as the norm intense cultivation via mentoring can ensure that the non-traditional student will secure employment based upon their capacity to pass. However, Colley (2003) argues that such processes rarely serve the mentee's interests and in fact serve an employer's (exploitative) interests. For mentees, Colley claims that mentoring fails to act as a mechanism for social inclusion, in most instances mentees become socially excluded as a result of their negative experiences of employability mentoring.

Given Colley's work is set within a broadly Bourdieurian/Marxist theoretical framework it is unable to ask specific questions. It undoubtedly makes a significant contribution to debates about university student engagement as a means to enhance student experience. However, it does not get at the tussle that students encounter as they construct their experiences via discourses of employability. Approaching the same issue from a Foucauldian perspective creates opportunities to investigate the interplay of structural constraints and agentic responses as students actively navigate discourses to arrive at alternative subjectivities.

The extent to which non-traditional students draw upon and resist discourses of employability

Very little empirical research exists that focuses specifically on the extent to which non-traditional students draw upon and resist employability discourses. Moreau and Leathwood's research (2006a) is an exception. The authors discovered that non-

traditional students (at a post-1992 public sector university) drew heavily upon employability discourses to make sense of their student experiences and to navigate ways into the world of work. Their research revealed that non-traditional students also actively resisted employability as a '*dominant policy discourse*' (Moreau and Leathwood, 2006a, p.306) recognizing the '*potentially damaging consequences*' for non-traditional graduates of investing in such discourses. They argued that non-traditional students are more likely to regard not securing a job as an individual failure and '*to blame themselves for any failure to succeed*' (Moreau and Leathwood, 2006a, p.320). Given the overarching aim of Moreau and Leathwood's research was to examine the extent to which non-traditional students drew upon and resisted discourses of employability it did not address the ways in which employability discourses hold the potential to position non-traditional students as more or less powerful. Building upon their research, my study endeavours to explore the ways in which non-traditional students actively negotiate employability discourses to reach new understandings of themselves and their relationships to HE, and to the legal profession as a specific field of employment.

Knowing something about the implied (direct) effects of employability discourses is important because non-traditional students are already disadvantaged within HE (Ainley, 1994; Crozier et al., 2008; Reay et al., 2009a; The Paired Peers Project, 2013; Jack, 2019). Additionally, because discourses (of employability) have positioning power embedded within them, they can potentially reinforce and multiply disadvantage for non-traditional students. Negotiating discourses is also important to consider because, theoretically, the negotiation of employability discourses recognizes that non-traditional students possess a degree of agency and also highlights complexity of lives lived as Othered subjects. This is significant because the agency of an individual and the complexity of reality are both ontological assumptions of a Foucauldian philosophy underpinning this research.

Employability and two-year (fast-track) undergraduate degrees

Most of the research on employability and HE (Ainley, 1994; Moreau and Leathwood, 2006a; Brown et al., 2011; Woodfield, 2011; The Paired Peers Project, 2013) is based on students to have studied a standard three-year degree course. But given the focus of this study on a two-year (undergraduate) degree, a question arises about the extent to which a two-year degree enhances student employability.

Two-year (fast-track) undergraduate degrees are constructed in the research literature as beneficial for graduates (including Law graduates) to secure employment a year earlier with the implication that they will have 'an edge' over those studying a traditional three-year degree (Stockwell, 2012). Fast-track undergraduate degrees are also presented as being effective at ensuring loans are repaid sooner on account of earning a salary one year earlier (*ibid.*). These claims though rest upon a common-sense narrative that ignores the fact that not all working graduates will be able to pay back loans sooner (or at all) – given the classed, aged, raced and gendered pay gap in the UK (Reid, 1998; Ostroff and Atwater, 2003; Laurison and Friedman, 2016; Kato and Kodama, 2017; Friedman and Laurison, 2019). It also fails to take account of the employment destinations of the fast-track students (i.e. unlikely to be the elite Law firms where 'golden hello packages' and large graduate salaries are on offer). Stockwell argues that such logic fails to acknowledge that the legal profession is a closed and exclusive employment field shaped by classed, aged, raced and gendered asymmetries that actively work against non-traditional students on accelerated degrees (Sommerlad et al., 2010; Ashley, 2011; Tomlinson et al., 2013; Tomlinson et al., 2019). Whilst Stockwell offers a 'think piece' based opinion rather than empirical research it nevertheless raises a series of important issues that this research, using a semi-longitudinal approach, has sought to explore by asking students about their experiences of securing a job in Law following a fast-track degree.

Employability of non-traditional students and the legal profession

Obtaining a (relevant and meaningful) job in the legal profession can be difficult for non-traditional students (LETR, 2013). As recorded above, the transition of a Law graduate into the legal profession is dictated by class, age, race and gender (Sommerlad et al., 2010; Ashley, 2011; Tomlinson et al., 2013; Tomlinson et al., 2019) to the extent that a non-traditional student is actively disadvantaged and unlikely to secure a (relevant and meaningful) job in the legal profession.

The LETR (2013) research found three key reasons that the legal profession remains relatively closed to non-traditional students. Law firms tend to: use tariff 'A' Level points; look at an applicant's legal work experience; and also recruit graduates from redbrick universities. Inevitably, this will exclude many working-class, mature and BME students who tend to have lower 'A' level tariff points (DfE, 2011); limited legal work experience (Francis and Sommerlad, 2009); and tend to go to new universities (Leathwood, 2004). This is supported elsewhere, for example LETR (2013) found that using legal work

experience as a criterion for selection tends to discriminate against Law students who have paid work commitments and/or care commitments i.e. working-class and/or mature students. Further, BME and/or working-class Law students are less inclined to be able to organize (informal) work experience because they tend to have a less robust social network or, as LETR express: weaker '*social capital and connections*'. (LETR, 2013, p.239).

Notwithstanding this research, some non-traditional students secure relevant and meaningful positions in the legal profession. Although such jobs tend to be in low status positions and/or in low status firms (Sommerlad et al., 2010). Hence, despite a statistical increase in solicitors entering the legal profession from non-traditional backgrounds in recent years (Milburn, 2012b; Law Society, 2015), the profession is still very much weighted in favour of white, male, middle-class men. BME, female and working-class solicitors are liable to work under worse terms (e.g. pay, status, opportunities) and/or are more likely to leave the legal profession all together (Sommerlad et al., 2010).

What's wrong with discourses of 'employability'?

It is immediately evident that discourses of employability draw upon notions of 'ability'. I remarked in the previous chapter that ideas of 'ability' are both classed and raced (Gillborn and Youdell, 2000; Leathwood and Hayton, 2002; Burke and McManus, 2011) with far fewer working-class, black students in the (higher) education system viewed as 'able' (Gillborn and Youdell, 2000). In this context, the (higher) education system works against working-class and/or BME students (Gillborn and Youdell, 2000; Reay et al., 2005; Perry and Francis, 2010; Burke et al., 2017) because 'ability' is a determinant of getting a job. When discourses of (employ)ability are applied to non-traditional students in relation to the workplace normativity and exclusion are set in motion.

The legal workplace (like the academy) is classed, aged, race and gendered, as a consequence employability discourses operate in ways that ignore the wider structural inequalities existing within society. Structural inequalities significantly impact on access to jobs and the likelihood of successful careers if they are secured. Since elite professions, such as Law tend to reproduce themselves in a homophilious way (Friedman and Laurison, 2019), without resistance, the (re)production of power and structural inequalities continue in the (legal) workplace. Inequalities in the (legal) workplace can also be illuminated by the implied effects of discourses. An implied (indirect) effect of employability discourses is that they often lead to legitimized conduct and/or thinking. As

a form of legitimized conduct, research (Ashley, 2010; Sommerlad, 2011; The Paired Peer Project, 2013) shows that, the legal profession tends to discriminate against non-traditional Law graduates. Hence non-traditional graduates are less likely to be recruited into the legal profession, but when they do it is typically to low status firms (Ashley, 2010; LETR, 2013) doing low status work (Sommerlad et al., 2010) on poor terms and conditions (ibid.). This explains the (gendered and classed) pay gaps that persist within the legal profession and other elite professions (Friedman and Laurison, 2019). Being the recipient of any form of (direct or indirect) discrimination is harmful to an individual (e.g. a non-traditional Law graduate) and actively works to disadvantage them further.

In relation to legitimized, normative thinking, non-traditional students are frequently Othered and so routinely viewed as in some sense inferior. In chapter seven normative ideas were expressed by one of the Law tutors (Sidney) when he claimed: *'...even if [our students] get through, they will not work in the bigger and better firms – maybe the CPS, if they're lucky'*. In this sense 'employability' becomes aligned with discourses of meritocracy where the legal workplace is constructed upon the falsehood that it is meritocratic. For non-traditional students *'...the failure to attain appropriate employment becomes an individual failure'* (Moreau and Leathwood, 2006a, p.320) and following graduation, a non-traditional student who is either jobless or working in a low status position will be subjected to processes of Othering that apportion 'failure' to the individual.

It is important to excavate how employability has come to shape key policy goals in the recent past, and whilst employability is widely understood to directly connect to economic rationality Budd (2017, p.115) extends this to a conceptualisation of a competitive arms race. Employability discourses have been invested and widely circulated by those in positions of power (i.e. white, middle-class, men and/or institutions run by them) to further self-interest at the expense of others. Competitive races necessarily produce winners and losers and, hence, not all students can or will win. It is those positioned with power within HE (i.e. younger, middle-class, white, male students) that are well-placed and ultimately destined to win. As Budd (2017, p.115) notes:

Massification and widening participation on the one hand are increasing the [study] opportunities...for wider social groups, but on the other hand this is creating an employability arms race that widening participation students will always be relatively ill equipped to win.

Therefore, undertaking employability activities at university is unlikely to assist mature working-class students in a competition where they are intrinsically set up to lose. Nevertheless significant energy and resources are pumped into employability rhetoric and initiatives, promoting the idea that a one-size-fits-all model exists for graduate students. The normalisation of employability discourses then generate '*unquestioning adulation*' (MacLure, 2003, p.74) which closes down the importance of providing:

...students and graduates with a critical framework within which to interpret concepts of employability and their experiences in entering the graduate labour market - both to mitigate against them interpreting a lack of success as a personal failure and to make collectivist interpretations and challenges seem possible (Moreau and Leathwood, 2006a, p.320).

Employability can be illuminated (and problematized) by Foucault's (1986) notion of '*the cultivation of the self*'. For Foucault, '*the cultivation of the self*' is shaped by an overarching principle of '*care of the self*' which he considered individuals to acquire through a relationship '*of oneself to oneself*' (Foucault, 1986, p.43). He wrote that:

This "cultivation of the self" can be briefly characterized by the fact that in this case the art of existence...is dominated by the principle that says one must "take care of oneself." It is this principle of the care of the self that establishes its necessity, presides over its development, and organizes its practice (Foucault, 1986, p.43).

For Foucault, cultivating '*a relationship of oneself to oneself*' includes individuals be(com)ing self-aware, contemplative and reflective. He argues that it includes: '*introspection, for examining what needs to be done, for memorizing certain useful principles, for reflecting on the day that has gone by*'. (Foucault, 1986, p.50). But, for Foucault, the problem with '*the cultivation of the self*' is that it requires sustained investment. As Foucault notes: '*It takes time. And it is one of the big problems of this cultivation of the self to determine the portion of one's day or one's life that should be devoted to it.*' (ibid.). So, when students are encouraged to cultivate an employable self by becoming self-aware, introspective and reflective of their own workplace skills it takes time. However, whether it is a worthwhile investment remains in doubt. If undertaken to secure a job then the cultivation of an employable self is disingenuous, since a non-traditional student is less likely to succeed in employability terms despite any deep

investments made to cultivate an employable self at university. Non-traditional students are actively and routinely disadvantaged so investing time (that often is not available) to become something that is ultimately unattainable represents a profound issue of social injustice.

Employability then is less to do with a student's '*cultivation of the self*' (Foucault, 1986) at university and more to do with structural inequalities shaped by prejudice and discrimination based upon the intersections of class, age, race and gender. Consequently, employability is rendered a hegemonic social construct, which is neither neutral nor objective. Without '*a critical framework within which to interpret concepts*', working-class mature students are ill-equipped to recognize barriers to success are not a personal failing, but rather they need to look to the social structures that actively reinforce and sustain inequalities.

Interestingly, a reason for studying this PhD was to enhance my 'employability' prospects within the discipline of Law in the HE market. The changing nature of HE insists on a highly credentialed academic workforce, for which a PhD has become the normative expectation. Investments in the cultivation of the self as described above, were for me double-edged. A doctorate is an important qualification for the aspiring Senior Lecturer but it is also a means to contemplate, reflect and deeply engage with a social justice issue. So, the pursuit of a PhD can be understood as a neoliberal project of the self, with the underpinning objective to ensure enhanced employability. Growing up in 1980's Thatcher's Britain, being the first member of my family to go to university, and subsequently becoming an academic teaching HE since 2004 are aspects of my biography that have directly informed my relationship to education and my sense of self (as a socially mobile, enterprising neoliberal subject). As a white, (once working-class but now) middle-class, male I recognise that I am advantaged within the structural frameworks of HE and I also acknowledge the significant ways in which discourses shape my experiences and choices (Leathwood and Read, 2009). Employability discourses are deeply problematic as this chapter attests, but equipped with a critical framework from which to interpret concepts means that I have been enabled to navigate them and achieve a secure discursive positioning within them.

In the next section, the voices of some of the student participants are presented to provide a sense of the ways in which they are more or less able to navigate employability discourses. Crucially, attention is drawn to instances where the investments students make seem variously (dis)connected from the views and practices of the Law tutors.

Exemplifying some of the data

This section incorporates an analysis of the (semi-longitudinal) data from research conducted in phase two of this study. Interviews via email were conducted in May 2019 which provided a follow-up to the student participants interviews that were conducted in phase one (February 2014 to August 2015) of fieldwork. Of the 12 participants who took part in phase one, six responded in phase two. In addition, and as indicated in chapter three, I deploy 'intersectionality' (Crenshaw, 2009) in order to attend to the complexity of how social class and age of a fast-track Law student intersects with 'race'/ethnicity and gender formations.

Normativity, discrimination, negotiation and reduction to silence

In response to the question: what's it like studying for a LLB on a fast-track basis at the Langham Institute? Anna (Female, 42, BME) [who was part of the second focus group] drew upon employability discourses in praise of her Law lecturers suggesting that they were well placed to assist students with securing training contracts. She imagined that the tutors' tacit knowledge about the legal profession could be tapped upon by students to secure advantages in the labour market.

Anna's construction of her knowledgeable and all-powerful Law tutors momentarily positioned her as a relatively unknowing and powerless subject. Despite the adulation for her tutors and the anticipation that they might secure relevant work experience for her, it appears that Anna (as a working-class, BME, woman) was unaware of the broader structural injustices and discrimination that have been outlined earlier in this chapter. Work experience for non-traditional students is unlikely to translate into a training contract. Research (e.g. Francis and Sommerlad, 2009) indicates that non-normative students are unlikely to secure a training contract from legal work experience compared with their more privileged counterparts. In particular, non-traditional students tend not to be seen as 'ideal' because Law firms are prone to assess work experience normatively which is implicitly shaped by social class, age, race and gender. Francis and Sommerlad (2009, p.79) found that: '*...even if a non-traditional student obtains a placement, they may find the experience alien and, further, that the assessment is likely to undervalue those who least resemble the professional norm*'. Hence, although Anna revered the power/knowledge possessed by her Law tutors, the real power/knowledge lies with the agents of the legal profession in allowing or denying access to it for non-traditional graduates of Law.

Similarly, Robert (Male, 35, WE) spoke about studying Law at the Langham Institute by drawing upon discourses of employability. In response to a question *'how would you assess your student experience?'*, Robert believed: *'Law sounds good and having a Law degree will help trying to get a job'*. This for a moment positions him as powerful since holding legal knowledge *'sounds good'* presumably from the perspective of employers. He temporarily positions himself as having a 'competitive edge' in relation to other (non-Law) graduates in the job market. Later in the interview, Robert negotiates 'employability' by drawing on discourses of derision and hierarchy of universities. He said: *'I don't think any of us from here will be taken seriously when trying to find Law jobs, I may have to look for other non-Law jobs'*. This admission positions him as less powerful and ultimately Othered him in comparison to Law students from other (more elite) HEIs. Consistent with some of the research outlined above, Robert anticipates discrimination during his attempts to be recruited into the legal profession. His fatal resignation that ultimately looking for *'non-Law jobs'* will be the only alternative for him signals a depressing picture that will be shared by many of his peers. It underlines the acute structural injustices that Othered students, on an Othered course at an Othered university routinely encounter. The deep investments and financial sacrifices they have made are unlikely to translate in employability terms. His discursive positioning within these discourses instil a palpable *'affective response'* (Ahmed, 2014, p.28) of fatalistic resignation, uncertainty and racial discrimination. The expectation that he will encounter racial discrimination aligns with his previous experiences (as an eastern European) that he spoke about later in the interview. He claimed that he had experienced discrimination for being eastern European in both the UK and the USA (where he had previously studied). In the USA, Robert thought that discrimination against foreigners was even worse and *'so you don't want to be a foreigner there'*, he added. Consequently, this apparent connection between his past experiences and imagined future highlights the circumstances under which employability discourses (re)position Robert as powerless. Furthermore, Robert's expectation of discrimination was more than speculation as it was supported by one of the Law tutors (Jack, Male, 50, BME) in this study. Jack constructed his own experiences in the legal profession as one fraught with discrimination. Jack said that when in practice as a barrister, he presented a paper on racism at a local Bar meeting. After that he did not get any work for a few years because *'I had been earmarked'* as a troublemaker.

Like Robert, Rahin imagined his future in terms of employability. Rahin was born in the 1950s and grew up in Trinidad, describing himself as Indian. He thought that studying for a Law degree:

would enhance my general knowledge...And coming to the UK to do my LLB I thought would enhance my future work plans. I've always wanted to do ambassadorial work for my country. So, coming to Europe, and making friends here, might help that. (Extract 8.1: Rahin, Male, 57, BME)

Drawing upon 'employability' positions him as powerful with an expectation of enhanced legal knowledge and enhanced '*future work plans*' but Rahin qualifies this subject position when he draws on discourses of standards as it applies to UK higher education. Chapter five highlighted that qualifications from the UK are constructed in government policy as '*excellent*' or '*world class*'. (BIS, 2016, p.7) which Rahin appears to be investing in. Yet, Rahin's implication that UK qualifications are 'world-class', has a scent of British colonialism and an unwitting effect that he is subject to a form of 'Othering' (Said, 1978) as a student originally from a former British colony. As a working-class mature student (already doubly Othered by studying a fast-track undergraduate degree at the Langham Institute), this disadvantages Rahin further. In 2019, when I asked Rahin (and Robert) in a follow up email '*what are you doing now?*', they did not respond. Their silence could be interpreted in a number of ways. But given that Foucault writes that '*power reduces one to silence*' (Foucault, 1978, p.60) Rahin and Robert's non-response can be read as the discourses of employability having functioned on them.

'...but for someone like me who's got nothing, that's it' and 'Unfortunately, I was unable to finish my degree' - negotiating and resisting employability

Kiara also spoke about her future plans via discourses of employability. She said that she wanted to become a barrister but thought that financing it would be a barrier. She believed that if you come from a '*good family*' there would be few problems in reaching that aim:

I have a goal in my head, but whether I get there or not is a different matter....I really want to be a barrister, but it's gaining the money to do it. I mean if you come from a good family and you've got money behind you, that's not a worry, but for someone like me who's got nothing, that's it. If anything's going to stop me, I think it will be that. (Extract 8.2: Kiara, Female, 31, WB)

Her talk is powerful because Kiara is aware of her own relative (financial) disadvantage acting as an obstacle in gaining entry to the legal profession. This is consistent with one of the main findings from the research carried out by LETR (2013). In relation to the cost of legal education, LETR found that non-traditional Law students face barriers in not progressing into the legal profession due to money and/or not obtaining work experience both factors that other research (e.g. The Paired Peers Project, 2013) has found to be interwoven.

Kiara draws upon employability discourses (*'I have a goal in my head....I really want to be a barrister'*) in a similar way to Rahin. This positions Kiara powerfully as an ambitious Law student. Nevertheless, she later negotiates the subject position when she combines employability (like Robert) with discourses of derision. She equates *'a good family'* with those families that *'have got money'* and by implication *'bad'* families with those who have *'got nothing'*. Kiara uses the binary opposition of *'good'* versus *'bad'* to construct her own family background in derisory terms. She implies that affluent (middle-class) families are good and less affluent (working-class) families are bad. This (re)positions her as less powerful in a way that implies that her family is lacking/deficient rather than her family simply being different/non-normative and ultimately structurally disadvantaged. Media discourses were a strong force on Kiara's self-identification. Following the interview Kiara continued to recall aspects of her life including where she lived; an area (in Norfolk) that she claimed was like *'Benefits Street'* which features on a Channel 4 documentary. *'Benefits Street'* was originally aired in 2014 and portrayed the daily lives of residents in an area of Birmingham where most live on unemployment benefits. The residents were depicted as lacking the capacities and aspiration to gain lawful, paid work. Theoretically, though, this could be construed as the residents resisting the cultivation of an employable self in order to subvert hegemonic discourses of employability.

In 2019, I asked Kiara in an email: *So, what have you been up to since graduating from the Langham Institute? Have you been able to get a job in Law?* Kiara responded: *'Unfortunately, I was unable to finish my degree...I am back living in Norfolk and a little lost in myself to be honest... but I am sure I will figure it out one day'*. In the interview from 2014, Kiara conceded that she had previously dropped out of another (Russell Group) university. One interpretation of Kiara dropping out (twice) could be that she lacks working-class aspiration (Thomas and Quinn, 2007; BIS, 2009). However, the previous quotes from Kiara signal that she in fact held very high aspirations (to become a barrister) so her decision not to continue to participate in HE does not necessarily relate to having low aspirations (Watts and Bridges, 2006). The structural barriers and her capacity to

navigate the prevailing discourses shaping legal careers undoubtedly worked against her pursuit of (unrealistic) aspirations. But as articulated earlier in this chapter, perhaps what Kiara would have benefitted from was space and opportunity to cultivate a self that could draw upon critical frameworks and so be better placed to recognise how discourses work to position her in particularly unhelpful ways. The narrow employability focus of the fast-track Law degree, the impressions given by tutors of being able to facilitate access to careers, the devalued status of the qualification itself, and the systemic prejudice against private HEIs were all contributing factors to Kiara's inability to realise her aspirations. Yet it is clear that with the absence of critical frameworks to make sense of this, Kiara resorts to attributing an inability to complete a degree and pursue a legal a career, to her own personal failings (Moreau and Leathwood, 2006a).

'I found more interest in other industries' - the hegemony of employability

Like others, Louise also discussed the significance of employability to her chosen degree and aspirations for her future. She shared the same ambition as Kiara, to become a barrister. When asked *'why those plans?'* she replied that she knew what the job was like because she had already worked in a Law firm. She added that when she felt vexed by, or held strong convictions about, a given issue she can be very outspoken. Therefore, she surmised that becoming a barrister was a good match to her personality:

... when I was working on a placement at a solicitors firm it kind of opened my eyes up, I didn't really understand the difference between a solicitor and a barrister but when I saw it in reality I could see the difference and I just see myself, me knowing myself as a person, I see what would suit my personality more and it's not just a job, it would be more of a hobby. I can be a very outspoken person. I can be, especially if I know something, I can be very outspoken and very passionate about what I'm saying and I think with what a barrister does expresses that more. I mean in reality I might not like it but that's what the work experience and the pupillage would be there for, obviously when I do hopefully get to that stage I will know more in detail and see it for myself. (Extract 8.3: Louise, Female, 21, BME)

Overall, Louise positions herself as powerful. Her previous work experience in a Law firm had enhanced her knowledge to the extent that Louise imagined her future working as a

barrister. This positions her as a determined and enterprising Law student operating with a high level of initiative. Although it is unlikely that she is fully aware that this branch of the legal profession is even more elitist than the solicitors' branch (Milburn, 2012b). Yet it appears that the power of employability discourses function on her in ways that obscure the realities of prejudice, discrimination and structural injustices from her narrative. Instead she invests in an optimistic account of a time '*when I...hopefully get to that stage*' of working as a barrister. The persuasiveness of employability discourses functions to deny Louise recognition that, working-class, BME women struggle with '*getting in*' and '*getting on*' (Friedman and Laurison, 2019, p.19). Entrance to the bar is notoriously difficult, even for the normative white, upper/middle-class, public schooled, male graduate. For a Law graduate such as Louise the odds are heavily weighted against her, yet she seems largely unaware (Sommerlad et al., 2010; Milburn, 2012b; Friedman, Laurison and Miles, 2015; Kirby, 2016). Despite gaining some legal work experience this had not translated into a training contract or pupillage. By the time of the second interview, some five years later, Louise had given up on plans to become a barrister. Instead she had set up her own business:

I decided not to go into Law as I found more interest in other industries. I have recently opened up a recruitment agency. It is going really well so far, a lot of challenges, hard work and sleepless nights. However, I'm not complaining! (Extract 8.4: Louise, Female, 26, BME)

So, although Louise (re)positions herself as a powerful and tenacious businesswoman (now in her mid 20s) understandably, she also displays a scent of a neoliberal enterprising subjectivity. And aligned to that is another, more significant, tension. As a Law student, it is evident that Louise spent time to '*cultivate the self*' via legal work experience. As a result, I argue that the hegemony embedded within discourses of employability functioned to exaggerate Louise's acceptance of her 'lot' without protest (Reay, 2006). This is illustrated by Louise finding '*more interest in other industries*' rather than Law, which (re)positions her as less powerful.

A docile body? Joining employability with a discourses of neoliberalism

Magda discussed her plans for life after her Law degree, believing that being a graduate would open up various work possibilities e.g. the police force, in tax, or as a paralegal.

Magda's long-term goal was to become a barrister - but only when *'I'm older'*. Upon graduating she contemplated initially studying for the LPC, doing some voluntary court work, and then working in a Law firm. However, for Magda, as a single mother, unpaid voluntary work was untenable because she had the responsibility of a young child to raise.

Magda visibly draws upon employability discourses to claim that pursuing a Law degree at the Langham Institute makes her more employable because it provides choices in the job market. This follows a certain logic because, as outlined above and in chapter five, the Langham Institute constructs its Law degree along such lines by stating that its *'...highly respected LLB qualification...[gives] you a broad range of career options'*. But, interestingly, even though Magda's words appear to reflect back the words of the Langham Institute, they only partially echo the sentiments of some of the Law tutors. Jack (Male, 50, BME) for example, claimed that studying for a Law degree at any place will give you *'a range of career options'*, it was the LLB and not the university per se that provides employment options.

Nevertheless, as a *'docile body'* (Foucault, 1977), Magda draws upon discourses of employability and notions of neoliberalism, in a way that echoes the Langham Institute prospectus. Her readiness to yield to the institutional discourse positions her as a relatively powerless choice-maker. The discourses function on her in a way that obscures an engagement with structural inequalities and the fact that her constrained work *'options'* are dictated by the classed, gendered and raced nature of the legal workplace (Tomlinson et al., 2013; Tomlinson et al., 2019) and less by the subject matter of her degree. As a working-class lone mother, the work options realistically available to her will be limited. This was confirmed when Magda also said that doing (unpaid) voluntary work currently was challenging with a young child. As discussed above, research shows that doing unpaid voluntary work while at university is difficult for non-traditional students (Francis and Sommerlad, 2009; The Paired Peers Project, 2013; LETR, 2013). Non-traditional students often have less time because they are either doing paid work during term time (Moreau and Leathwood, 2006b; Reay et al., 2009a; LETR, 2013) and/or have care commitments (Leathwood and O'Connell, 2003; LETR, 2013). And although Magda commented that her mother lived nearby, working-class (under)graduates are unlikely to be able to draw upon a crucial (financial) resource - the *'Bank of Mum and Dad'* (Friedman and Laurison, 2019, p.87), in order to take on unpaid voluntary work and/or take risks with short term work contracts. On re-contacting Magda in 2019 I was unsurprised by the trajectory her career had taken:

I am doing well; I did try to get a job working within the legal sector, but it was harder than initially anticipated. I did some stuff here and there but nothing that led to anything permanent. I did apply for the LPC, got accepted but the financial side of things scared me a little (because I have a dependant) and upon completion it does not lead to a secure job, so it scared me. I therefore went ahead with my other passion and managed to work my way up. I am now a Safeguarding Officer for a housing association. It is a very mentally challenging job, but it is so rewarding!! I am still proud of my myself for completing the Law degree, I may pursue it in the future... but for now I am content and enjoying what I do, helping the lost vulnerable people. And giving back feels amazing. (Extract 8.5: Magda, Female, 29, WE)

'International Law sounds good' - combining employability with a discourses of standards

Compared with her peers, Stacey bucked the trend in that she was rather silent on issues of employability. That said, when asked what she was planning to do after the LLB, Stacey explained that she wanted to do an LLM in international Law with the express intention of working in that area. She said:

I think I would want to explore international Law as an LLM, even though I don't really know much about it, but from a general point of view that's the sort of area I would want to venture into. But obviously I would need advice from experts or experienced people on what they think would be best for me 'cause I have no clue really, I just think, yeah, international Law sounds good. (Extract 8.6: Stacey, Female, 28, BME)

Stacey's reference to *'that's the sort of area I would want to venture into'* can be read as her imagined future working in an international Law firm. Within that context, Stacey draws upon employability discourses to position herself as powerful; as an ambitious Law student (like Kiara, above) albeit with a global outlook. Stacey positions herself with power in another sense too. By wanting *'to explore international Law as an LLM'* (arguably, a legal area infused with masculine connotations) she deviates from normative

ideas that students often 'choose' subjects deemed gender appropriate (Francis, 2006; Thornton, 2012).

But, consistent with other parts of her interview (exampled in the previous chapter), it is noticeable that Stacey simultaneously draws on employability standards discourses when she says: *'I have no clue really, I just think, yeah, international Law sounds good.'* She temporarily negotiates her subject position to one of relative powerlessness since she superficially draws upon discourses which are riddled with contradictions. Tensions exist since the binary opposition embedded within the discourses is that international Law is good/ethical and by implication domestic Law is bad/unethical. Though, one of the challenges of international Law is that it is more difficult to enforce compared with domestic Law (Henrikson, 2019). Therefore, international Law frequently requires countries to either abide by what they have agreed to (in a treaty) with the international community or potentially face military intervention from other nation states (ibid.). It is not clear that Stacey fully grasps this but it is apparent that she is persuaded by the hefty status attached to international Law and associated careers. Like Kiara though, Stacey also seems not to have developed the critical frameworks necessary to interrogate the harsh realities that mature, working-class, students from BME backgrounds encounter in the world of Law.

When I caught up with Stacey in 2019 she reported that she had not studied for an LLM in international Law. Instead, she was studying for the vocational stage in legal training while also working part-time (as a paralegal) in a Law firm – both undertaken in order to qualify as a solicitor. She wrote:

I am currently finishing off the Legal Practice Course and also working in a Law firm as a costs paralegal in the personal injury and medical negligence department. We mainly deal with catastrophic injuries and I am finding it quite interesting. Hoping to get a training contract!
(Extract 8.7: Stacey, Female, 33, BME)

It is entirely possible that Stacey might obtain a training contract from her paralegal position, although the research referred to above indicates otherwise. For Stacey to realise her ambitions to secure a training contract in an international Law firm it would likely be at a city firm. Her chances of being successful become yet more remote, since research by Sommerlad (2011) shows that, even though many large city Law firms have diversity policies in place, many powerful lawyers within the firms perform acts of

resistance. Law firms invest heavily in the avoidance of the power embedded within diversity discourses so that those with most power (i.e. white, middle-class men) is preserved. Sommerlad (2011, p.74) argues further that:

...the Law firm [is] a marketplace (or network of relations) where agents contend to achieve and hold different positions: 'outsiders' make claims for inclusion, which powerful actors resist, in part through 'micropolitical sabotage' ... of progressive managerial strategies.

Resisting employability via a counter-discourse of discrimination

Similar to Stacey, Sherif also talked about pursuing further postgraduate study upon graduation framed by discourses of employability. He aimed to undertake an LLM in Internal Relations because he had aspirations to work for the United Nations. Alternatively, he wanted to specialise in clinical negligence work in a Law firm because of his background as a nurse, working for the NHS. When I asked him: '*Do you know what legal practice is like?*' he replied that he believed it was competitive, classed and raced:

...for example, we know from evidence that the barrister's profession is quite difficult to get into if you're not from... if you don't have the talk or if you don't look the ... you know ... if you don't look like them. Sometimes it's even people who are born, it's quite difficult for them to get into it because it's only the people from privileged backgrounds who have the opportunity. I might be entirely wrong but that's my view and that's what I gathered as well. But also, I was told that ... there are a lot of Law graduates coming out, the competition is quite stiff, to get into and get sponsorship and things like that. So those are the things that I look at, and if you're from an ethnic minority, even the way you speak could sometimes determine where you go to really. (Extract 8.8: Sherif, Male, 40, BME)

Hence, even though Sherif draws upon discourses of employability, we can see in extract 8.8 that he resists employability with a counter-discourse of discrimination. In this sense, his talk can be aligned to that of Robert's, above, in that both imply that they expect some level of discrimination from and within the legal profession. Consequently, discourses of

employability appear to be functioning on Sherif by instilling an *'affective response'* (Ahmed, 2014, p.28) of mild fear of discrimination – which (unlike Robert) Sherif deploys productively as a counter-discourse.

It is evident, therefore, that Sherif is aware of the structural forces that shape access to, and the culture of, the legal profession. He appears to speak about discrimination within the legal profession in terms of 'race' and class (*'...if you're from an ethnic minority, even the way you speak could sometimes determine where you go to really'*). Sherif's reference to *'the way you speak'* is a marker of privilege since accent and *'polish'* are often recognised as proxies for social class (Friedman and Laurison, 2019, p.25). Consequently, for Sherif, *'people from privileged backgrounds'* are those who are positioned with white and upper/middle-class advantage. Sherif thus possess knowledge and power about the realities of the legal profession which (as a working-class, BME Law student in his 40s) is a sector where as an 'outsider' he will be making a claim for inclusion, which is likely to be met by resistance, *'in part through 'micropolitical' sabotage'* (Sommerlad, 2011, p.74). Yet, a counter-discourse of discrimination positions him, momentarily, as powerful and in particular as a well-informed and socially aware student of Law.

Upon reconnecting with Sherif in 2019 he reported having completed his LLM studies and that he was in the throes of studying for 'the Bar'. Like Stacey, he was also working part-time (as a paralegal) in a solicitors' firm to become more 'employable'. And so, Sherif's goal was to gain access to the barristers' branch of the legal profession. He said:

Yes, I have finished my LLM in International Relations at Kent Law school successfully and currently I am undertaking the part-time BPTC¹⁹. I'm in my final year of 2 years of study. It has been tough and bumpy at times and I hope I can pass my exams. I also work one day a week at a solicitors' firm in [urban city area]. I have received commission at times but, also, I did pro bono work on occasions.
(Extract 8.9: Sherif, Male, 45, BME)

Sherif's part-time work in a Law firm can be interpreted as an investment to make himself more 'employable', particularly given that he had also undertaken postgraduate study. It is evident that like Stacey, he had spent time making himself more employable *after*

¹⁹ Bar Professional Training Course

graduation in a quest for a '*cultivation of the self*'. This '*cultivation of the self*' could have paid greater dividends in terms of career trajectory had it been taken sooner, but as Foucault (1986) stressed such investments in the self take considerable time. Time is a resource that is limited for a working-class mature student, like Sherif, studying on a fast-track degree. During term time, Sherif studied full-time and worked 'part time' as a nurse '*as a way of supporting myself*', he said. In addition, his two-year fast-track degree at the Langham Institute offered only limited vacation time. But the holiday time that it extends to students (five weeks between each of the three semesters) is allocated for writing coursework assignments.

Compared with Law students on a standard (three-year) degree from a privileged background, Sherif is disadvantaged. As stated above, research (LETR, 2013; The Paired Peers Project, 2013) shows that traditional students on three-year Law degrees tend to be able to undertake employability activities (e.g. vacation placements, work experience) during their undergraduate studies. They are less likely to have paid work or care commitments and have more vacation time to undertake employability activities. Sherif's narrative indicates that some non-traditional students on fast-track Law degrees are prevented from undertaking meaningful and relevant work activities until *after* they graduate. This raises important questions about the extent to which non-traditional students on a fast-track Law degree delay embarking on employability activities in order to get a job in the legal profession.

Conclusion

This chapter has drawn upon a range of powerful narratives from students in the thick of navigating ways through HE and into legal careers. Without exception the working class, mature students in this study drew upon discourses of employability. They did this in order to position themselves as powerful and invested in expectations of in-depth legal knowledge and enhanced futures. When employability and standards discourses were simultaneously drawn upon they had the temporary effect of 'Othering' students and so worked towards disadvantaging students further.

This chapter also revealed that most of the students in this study were able to effectively negotiate discourses of employability. By drawing upon discourses of employability and neoliberalism students were able to position themselves as relatively powerless choice-makers and so illuminate the structural and systemic inequalities that underline the fact that work 'options' are in fact fantasies. The wider circumstances that come to

characterise the legal profession (i.e. by the classed, aged, gendered and raced nature of the workplace) are more significant to career trajectories than the content of degrees and where degrees are studied.

Investments in time spent to '*cultivate the self*' via legal work experience was a recurring theme throughout the student narratives. For most this was a luxury that was not made possible by the nature of a compressed degree narrowly focused on the acquisition of instrumental knowledge needed for modern day legal work. Furthermore, the time needed to invest in a project of the self was denied because of the additional demands that non-traditional students typically have made on their time (paid employment, caring responsibilities). Significantly, this inability to invest in a cultivation of the self meant that the students were denied critical frameworks from which to make sense of the wider structural inequalities and prejudicial realities that inevitably inflected their experiences of HE, and ultimately access to the legal profession. Consequently, several students fatalistically resigned without protest and so found themselves positioned as lacking power. There were notable exceptions to this though, especially for students who were less encumbered by additional responsibilities and who had previous encounters with direct discrimination and so felt better placed to identify it and call it out. Injustice was reproduced for many of the students in this study to the extent that they became triply disadvantaged. A fast-track degree does little to ensure early access into the legal profession. Furthermore, Othered students having pursued an Othered degree at an Othered university were the subject of three-fold disadvantage. This chapter has gone some way to highlight the extent to which students are aware of this positioning and what they actively do to navigate ways through.

Chapter 9: Conclusion - reflections, implications, impact, contribution, extendibility and limitations

As stated in the introduction, and elsewhere throughout the thesis, this study set out to investigate:

1. What discourses do working-class, mature students draw upon or resist in constructing their experiences of a two-year undergraduate Law degree, taught at a private Law school in the south of England?
2. In what ways, and on what occasions, do these discourses (re)position them, as powerful or powerless. That is:
 - (a) How exactly do these discourses (re)position them, as powerful or powerless
 - (b) When exactly do these discourses (re)position them, as powerful or powerless
3. To what extent do fast-track Law students negotiate these (re)positionings?

These questions have been addressed throughout the eight chapters of this thesis. Chapter two charted the overall context for this research by locating this study within the broader field. Mapping the major debates about contemporary HE included a discussion of the purpose of (higher) education with reference to employability; the experiences of university students (including working-class mature students); constructions of students as 'consumer', 'investor' and 'partner'; and the 'intens(iv)e' nature of two-year undergraduate degrees. This involved identifying the most pertinent studies and prevailing ideas that have come to shape current thinking about working-class, mature students studying two-year undergraduate Law degrees. Chapter two maps what is known, and identifies what is not known, and thereby underlines what this thesis has to offer to this particular field of enquiry. It is also significant because it facilitates a means for this study to make a contribution to the established and ongoing dialogue about contemporary issues within HE.

Meantime, chapter three sought to locate the study within Foucault's philosophical approach. A Foucauldian theoretical and conceptual framework is sketched which specifically highlights the ontological and epistemological assumptions on which this study rests. I identified certain Foucauldian concepts: *discourse*, *power/knowledge*,

resistance, counter-discourse, positioning, connaissance, and Othering all of which inflect the research questions. Thinking with theory (Jackson and Mazzei, 2013) is important because it allows sense to be made of observations that unfolded at the earliest stages of the research, before entering the field. Moreover, this chapter is significant because it sets up a means to theorise data and so address the research questions, thereby generating new knowledge and new ways of knowing. Establishing a firm theoretical framework is essential and provides a robust justification for many of the research decisions made throughout the life of this study.

Next, chapter four discussed the methods used, and the methodological and other issues encountered through this research. Given that the main focus of this study was an exploration of the experiences of working-class, mature students, it was crucial that a conceptualisation of social class was developed. Drawing upon Foucault's philosophical tradition enabled an in-depth discussion of the methodology that determined the research methods chosen. To this end, I mapped out how the research design, fieldwork methods and approach to data analysis are all shaped by Foucault's epistemological and ontological assumptions. Towards the end of the chapter some ethical issues encountered in this research were outlined. This chapter offers a transparent and reflexive account of the research; it necessitated a detailed discussion about the importance of research reflexivity (which is revisited at various other points throughout this thesis). For a researcher to be '*ethically reflexive*' transparency should be an almost '*taken-for-granted component*' (Gewirtz and Cribb, 2006, p.147) of all research. It requires '*being explicit...about the value assumptions*' (ibid., p.147) underlying the research, and defending these assumptions. Reflexivity ensures that research is credible (Troyna, 1998) since the '*links between value commitments, knowledge and the political implications of research*' (Abraham, 2008, p.537) can be made clear. Reflexivity is also significant because it signals researcher integrity because all research is '*value-laden*' (Gewirtz and Cribb, 2006, p.152) and for a researcher to think otherwise is naïve (ibid.).

Discourse analysis of a selection of specific texts (i.e. government policies, the Langham Institute's undergraduate prospectus, and extracts from media articles) was presented in chapter five. This chapter bridges a gap between the preceding and subsequent chapters since it uncovered alignments as well as multiple tensions and contradictions between and within multi-layered textual accounts of HE. The myriad ways in which 'higher education', 'fast-track degrees' and 'HE students' are constructed in official texts was explored and exposed. Working with Foucault's concept of *connaissance*, allowed for discursive fictions functioning as 'truth' to be unearthed and troubled. Many of the

hegemonic discourses surrounding 'fast-track' undergraduate degrees, 'higher education' and 'HE students' impact upon students in detrimental ways. The chapter identified specific functions and (negative) effects as relational to powerless subject positions, to processes of Othering, and to (mis)*connaissance*, all of which is explored in greater depth in chapters six to eight. Non-traditional students are subjected to a set of discourses that position them in deficit ways, which is further exacerbated when taken in relation to fast-track degrees and/or private sector providers. Non-traditional students are routinely Othered within discursive accounts of HE; this positioning is further intensified by processes of pathologisation on the basis of the nature of the degree (fast-track, vocational) and the institution in which it is studied (private sector). The chapter identified important moments where such discursive positionings can be actively resisted and reworked to produce alternative possibilities for mature, working-class students.

Chapter six addressed the prevalence of intensity discourses that shaped the narratives of the students included in this research. The extent to which the Law students drew upon, resisted and negotiated discourses of intensity in relation to their student experience is explored. In the Foucauldian tradition, the notion of 'intensity' as a social construct is interrogated as a means to dismantle, unsettle and trouble taken-for-granted assumptions that appear common sense and reasonable. Deconstructing how discourses operate allowed for a consideration of the function and effect of intensity. This involved attending to the affects generated and the discursive positionings occupied by the students. Intensity discourses were both nuanced and complex, and it was noted how the students deftly negotiated the powerful effects of discourse. The Law students variously constructed 'intensity' in fluid ways thereby taking a degree of ownership of the concept by putting it to work in ways that strengthened their sense of self. The fluidity of 'intensity' is counter to the research literature that presents the (non)-intens(iv)e nature of two-year degrees as a universal fixed 'truth'. This study disrupts received wisdom by arguing that two-year undergraduate degrees are far more complex than prevailing intensity narratives purport. Because intensity is a contestable term, and one that is socially constructed and put to work for political purposes, this research underlines the need for further debate about what intensity means, for whom and with what consequences.

This chapter makes an important contribution to addressing the research questions, particularly questions 1, 2(a) and 3. In all illustrative examples mapped throughout the chapter, students used a certain degree of agency to negotiate their discursive (re)positioning from relative powerlessness to something (temporarily) more powerful.

Students encountered their subject positions in various ways, and different moments in time, but all shared a sense of being momentarily Othered through deficit discourses. Given that working class, mature students are disadvantaged within HE, I argued that processes of Othering (based upon the nature of the degree and the institution in which they studied) further exacerbated this sense of disadvantage. By unearthing how intensity discourses worked on the students in this research it was possible to identify an area for further investigation. For example, intensity discourses were found to produce an affectively charged response of mild fear, which raises questions about the significance of affect to future research into studying in the legal academy. A concern with affect is largely missing from the literature; I go on to discuss this in more detail later in this chapter to suggest that it represents a potential area for future research.

Chapter seven offered an analysis of students' constructions of their experience of studying a fast-track degree at a private university, in ways that reach beyond a narrow concern with 'intensity'. I found that students navigated three interwoven discourses that prevail in the current climate, that is student as consumer, investor and partner. Accordingly, this chapter was in conversation with propositions set out in chapters two and five, where students were shown to be frequently constructed in a one-dimensional way. This chapter contributes to the field by unearthing that even when students draw upon discourses of student(s) as consumer, partner or investor they negotiated them with ease (which directly contributes to answering research questions 1 and 3). The analysis offered in this chapter reveals students to occupy multiple subjectivities that were, at times, contradictory. It was through exposing the structural circumstances under which the hegemonic discourses of student(s) as consumer, investor or partner circulate that students' capacities to discursively reposition themselves became visible. By attending to research question 2 (b), I argue that hegemonic discourses have important implications for non-normative students (i.e. working-class, mature students on a two-year degree at a private HEI) and provide insights into the ways in which they are positioned and encounter multiple disadvantage.

An analysis of the data expose students to be disadvantaged (and some more than others) as a result of navigating these competing subject positions. This finding adds further complexity to existing research (Leathwood and O'Connell, 2003; Read et al., 2003; Reay et al., 2009a; Burke et al., 2017; Jack, 2019) that indicates working class, mature students on normative three-year degrees at public sector HEIs are disadvantaged by (and within) the HE system. Thus, working-class mature students' accounts of their two-year undergraduate Law degree at the Langham Institute conveyed

a strong sense of disadvantage which noticeably intensified when such experiences are further shaped by gender and race. These intense, multi-layered accounts of disadvantage raise important social justice questions that directly challenge the normative 'one size fits all' model of the student as 'consumer', 'partner' and/or 'investor'. This chapter asks which students get to be a consumer, a partner, or an investor - and with what implications? I go on to discuss this in more detail later in this chapter as another area for future research.

Chapter eight builds upon arguments made about intensity by offering an analysis of employability discourses which powerfully shaped the ways in which the students made sense of their student experience. Attempting to fill a research gap (identified in chapter eight), I unearthed some of the functions and direct effects of employability discourses on the students in relation to affective dimensions that contributed to discursive positioning, resistance and negotiation of those discourses. Analysis of the data suggested that discourses of employability (particularly in relation to Law as a subject discipline) positioned students in this study momentarily as still more powerless than they were already within HE. Additionally, there was no support for the claim that fast-track degrees allow students to enter the (legal) workplace one year earlier, which was the ultimate promise presented through policies and the institutional prospectus. This falsehood worked to intensify injustices encountered by these students. Hegemonic discourses of intensity and employability worked to produce enterprising neo-liberal working-class mature subjects committed to the 'cultivation of the self' – yet, such investments ring hollow when they fail to translate into accelerated academic outcomes or secure employment.

In relation to research questions 1 and 3, chapter eight revealed that the working-class, mature students in this study drew upon and negotiated discourses of employability. For example, one student, Rahin, negotiated employability by drawing on discourses of standards, which worked together to 'Other' him further. Meantime another student, Magda, drew upon discourses of employability and the enterprising neoliberal subject to rework her subjectivities. In relation to research questions 2 (a) and 2 (b), this positioned her momentarily as a relatively powerless choice-maker. It functioned to obscure the fact that work 'options' are determined by wider circumstances i.e. by the classed, gendered and raced nature of the workplace and less by the content of her degree and place of study. Hegemonic discourses functioned on and against another student too. For example, Louise spent time 'cultivating the self' via legal work experience, but hegemonic

employability discourses amplified Louise's acceptance of her 'lot' without protest. This positioned her as less powerful.

In relation to research question 1, two of the students exercised a degree of agency in their capacities to resist discourses of employability. One student (Kiara) dropped out of HE as a means to resist discourses that positioned her in deficit ways. Similarly, another student (Sherif) drew upon a counter-discourse that foregrounded his experiences of discrimination. He then subsequently invested heavily in employability discourses *after* graduation in a quest for a more employable selfhood. This finding makes an interesting contribution to what is already known about the student experience since it underlines the significance of investments in employability *after* graduation. Sherif's narrative generated an important social justice question: to what extent do non-traditional students on a fast-track Law degree delay embarking on employability activities in order to get a job in the legal profession? This question highlights an area for further research which is outlined below.

Overall this study found that most of the working-class mature students were further disadvantaged by the discourses that they were subject to. I concluded that this constituted a 'triple disadvantage'. Triple disadvantage then can be accounted for by the result of intersecting identities (i.e. mature, working class), that position all such students negatively, by and within HE. Such disadvantage was deepened by the nature of the course studied and the status of the HE institution: a two-year fast-track degree at a private HEI are both denigrated as inferior to the normative standard three-year, public university Law degree. The broader discursive landscape that the students were required to navigate further compounded this sense of disadvantage. For this group of students discourses of employability and intensity alongside narrow constructions of student as consumer, investor or partner presented acute challenges. For these Othered students, studying an Othered course at an Othered HEI, this neo-liberal discursive landscape worked to further exacerbate their sense of inauthenticity and marginalization. The triple disadvantage unearthed through this research highlights a number of important social justice implications, particularly in relation to social class disadvantage. Age, 'race' and gender formations (among others) are protected characteristics under the Equality Act 2010. However, social class is not, the implications of which are discussed further below.

Original contribution to knowledge

Triple disadvantage, as documented above, makes an original contribution to knowledge in the field of HE studies. The idea of triple disadvantage is inspired by (and draws upon) the recent work of Jack (2019) *'The privileged poor: how elite colleges are failing disadvantaged students'*, and Friedman and Laurison (2019) *'The class ceiling: why it pays to be privileged'*. These authors write about 'double disadvantage': Jack documents the lives of working-class students at an elite university in the USA, whilst Friedman and Laurison write about (working-class) graduates navigating their way in elite workplaces in the UK.

Jack's research attends to the ways in which poor, working-class students (from various ethnic backgrounds) at an elite university are disadvantaged. He makes an interesting distinction between 'the privileged poor' and 'the doubly disadvantaged'. For Jack (2019), the privileged poor are working-class students who possess some level of social and cultural capital because they had been (like Jack himself) to a private-sector high school before an elite university. By contrast, the doubly disadvantaged are working-class students who attended a state high school. They, therefore, had limited forms of Bourdieurian-type capitals to navigate their way through (an elite) university. Moreover, he writes about the alienating policies, practices and culture of an elite university adversely impacting the doubly disadvantaged more than the privileged poor. He draws upon an example of tutors' office-hours about which all students were informed. But the doubly disadvantaged tended not to know what they were used for and, in view of that, were less prone to exploit them for their own learning. He concluded that access to an elite university is one thing but 'getting on' within it is another social (in)justice issue entirely. Amplified disadvantage was an important discovery for Friedman and Laurison (2019) also. They exposed that a pay gap, shaped by class inequities, exists within elite professions in the UK. The pay gap between working-class and middle-class workers is one source of disadvantage. But the gap is exaggerated by intersectional markers of gender and race. For example, they assert that the 'wage' gap is almost doubled when working-class women's pay is compared with that of middle-class men in the same elite profession; highlighting the existence of a double disadvantage for working-class women.

Similarly, and as emphasised above and throughout this thesis, I have claimed that working-class, mature students experience disadvantage within HE. I contend that this disadvantage is doubled when they study on an (Othered) fast-track undergraduate degree at an (Othered) private HEI. Consequently, when non-traditional students on

'those courses' at 'those places' are subject to discourses of intensity and employability; and faced with negotiating narrow constructions of the student (as consumer, investor and/or partner) they find themselves (re)positioned as yet more powerless – to such an extent that the students in this study can be understood as triply disadvantaged. Unlike Jack (2019) who argues that high school type and level of capital(s) is the source of a double disadvantage; and Friedman and Laurison (2019) for whom the intersectional forces of gender and 'race' provide the foundation of a double disadvantaged, I conceptualise multiple disadvantage differently.

The triple disadvantage unearthed through this research can be traced to the intersections of working-class subjectivities with the aged, 'raced' and gendered identities of the students in my 'sample'. As highlighted in chapter three, the concept and effects of intersectionality (Egharevba, 2001; Crenshaw, 2009; Osgood, 2012; Friedman and Laurison, 2019) was useful to consider in relation to the students included in this study as it became clear that one identity marker could not, and should not, be treated in isolation (Archer et al., 2003). Subjectivities need to be imagined as a multiplicity; as one intersecting site of (dis)advantage or power(lessness). The intersections of the mode and place of study also proved to be significant factors in shaping the experiences and identities of this group of students. A fast-track vocational degree at a private HEI further intensified the processes of Othering that the students encountered. The means by which I have traced the construction of triple disadvantage rely upon a recognition of intersectionality and multiplicity (Crenshaw, 2009). By excavating discourses (and mapping the ways in which this 'sample' of students navigated the discursive landscape) has been nuanced, complex and at times messy. Yet, this Foucauldian inspired approach has resulted in new knowledge about the means by which already disadvantaged students are further marginalised within contemporary HE, shaped by neoliberal concerns for efficiency, employability and success.

Other innovations

As well as the identification of triple disadvantage, this study makes a number of other contributions to the field of educational research principally in relation to some of the methodological techniques employed. In chapter four, the choice and rationale for using excerpts from the BBC drama *'This Life'* to generate data in the focus groups was explained. Whilst film and photography have been used to prompt discussion in other research (Sherin, Linsenmeier and van Es, 2009; Burbank, McGregor and Wild, 2018) the specific choice of *'This Life'* was novel and pertinent to this research topic and sample

group. It was particularly effective in promoting lively discussion and inviting participants to grapple collectively with issues that they were already wrestling with. Therefore, making use of visual stimuli (particularly satirical comedy-drama) can enhance and enrich data collection and enable sensitive topics to be approached in ways that avoid over personalising accounts in a group context.

Offering participants the opportunity to choose a pseudonym for themselves was also a deliberate strategy. It offered them some agency in the way they would be represented in the research and avoided the danger that I might unwittingly stereotype participants by the names chosen. This is important since any practice of stereotyping functions as a form of discrimination (Timmer, 2015) which effects individuals in ways that harmfully position them as powerless. But I decided to take this step for theoretical reasons too. As noted in chapter three, knowledge is socially and continuously (co)constructed between individuals within a social process (Burr, 2015). Within a research process, the co-construction of knowledge means that emphasis is placed on the subjective meaning of respondents' words. Thus, a respondent's own name choice is given power via the research process that draws upon Foucault's philosophy. This seeks to redress the power asymmetries between the researcher and the researched (Francis, 2000; Maylor, 2009), characteristic of most positivist research (Fawcett and Hearn, 2004).

Implications for policy and practice and research impact

Implications for policy and practice

The findings of this study have a number of significant implications for policy and practice. Chapter six outlined how discourses of intensity functioned to position students in this study in problematic ways. Seeing as working-class, mature students are already disadvantaged within HE, these less powerful discursive positions tended to disadvantage them further. Consequently, from a policy perspective HEIs (and other policy makers) should avoid framing two-year undergraduate degrees as 'intensive'. This study has shown that promoting the idea that pursuing degree courses will be intense is fictional, meaningless, and potentially harmful particularly for non-traditional students. Universities should also consider issues connected to space and time. Chapter six argued that space and time feed into narrow conceptualisations of 'intensity'. Teaching on fast-track degrees requires spacious (real world) premises, rooms and classroom layouts that can have real benefits to students who feel otherwise squashed and cramped by the mode of study and the wider expectations that frame their courses. Universities

could also consider interactive teaching and learning without frontiers i.e. more virtual (real-time) teaching and learning solutions which, due to the Covid-19 pandemic in 2020, might become more widespread (Lau, Yang and Dasgupta, 2020). However, it is likely that this may give rise to other (classed, aged, gendered and raced) complexities and intensities for students with already busy and demanding lives. Universities should also consider carefully how fast-track teaching timetables are constructed to ensure that the impression of (time) intensity is mitigated. For example, timetables should avoid back-to-back teaching sessions for students so that they are given respite in a way that supports a moral, ethical way of living and making 'care of the self' more attainable.

In chapter seven, the implications of hegemonic constructions of students as consumer, investor and/or partner were explored. For non-normative students on a two-year degree at a private HEI these constructions are particularly problematic since they further disadvantage the already disadvantaged. Given that the discourses of consumer, investor and/or partners are fabricated through text it is possible for them to be re-fabricated. HEIs (and other policy makers) should attend to the ways in which they construct students on fast-track degrees, and consider reframing them as 'learner' rather than consumer, investor or partner. Such a reframing could contribute towards minimising unreasonable expectations that are placed on already overburdened non-normative students. As McCulloch (2009) attests, students are just as much learners as they are consumers, investors or partners. Reframing students as learners would provide a form of resistance to demands for students to be understood as consumers, investors and partners. Chapter three mentioned how resistance can be productive through the generation of oppositional logic. Foucault recognised that '*where there is power there is resistance*' (Foucault, 1978, p.95) so although power is '*net-like*' (Foucault, 1980, p.98) and '*power is everywhere*' (Foucault, 1978 p.93) there is also space for individuals to resist it, since '*points of resistance are present everywhere in the power network*' (ibid., p.95). Resistance can be recognised in various forms including, and as remarked throughout this thesis, students using counter-discourse strategies (Read et al., 2003). Further, while the main activity universities are engaged with concerns teaching and learning, particularly for the HEIs that deliver fast-track degrees (Huxley et al., 2017; UCAS, 2017), it seems crucial that counter-resistance offers the means to (re)imagine students as learners. This re-imagining could be realised by a change to HE pedagogical practices (Burke et al., 2017) that promote opportunities for students to actively (and effectively) learn, especially those on fast-track degrees.

Analysis of the data in chapter eight suggested that hegemonic discourses of employability (particularly in relation to Law as a subject discipline) positioned students negatively. Additionally, there was no evidence that fast-track degrees enable students to enter the (legal) workplace sooner. With this in mind universities, policy makers and other stakeholders should avoid misrepresenting fast-track (Law) degrees; particularly the claims that fast-track degrees provide a means to enter the (legal) workplace one year earlier, compared with standard degrees. Law schools could continue to have employability related modules on fast-track Law degrees but *integrated into* the timetable. For example, this could be in the form of a compulsory Law clinic module. Such measures would ensure that non-traditional students (e.g. working-class, mature) have opportunities to cultivate an employable self while studying rather than being required to do it in addition, via work placements. Chapter eight underlined that working-class, mature students have limited time to do this because of paid work and/or care commitments. The LETR (2013) recommended that social awareness should be taught on legal courses within a Law context. The inclusion of topics such as the sociology of the legal profession would ensure that students and tutors are fully conversant in the social realities and inequities of employability within the legal profession.

Research Impact

Stakeholders likely to be interested in this study include:

1. national and institutional HE policymakers or public bodies (e.g. SRA) under a duty to carry out Equality Impact Assessments (EIAs)
2. public and private sector universities (including in the USA) which currently deliver fast-track undergraduate degrees, or who are thinking of doing so
3. curriculum development teams and/or teaching and learning managers (particularly if their provider has a large number of non-traditional students)
4. Law schools (including their students and tutors) nationally and internationally
5. university widening participation teams seeking to (re)attract mature students, who have become a 'dying breed', into HE
6. the legal profession and its regulators (i.e. the SRA and BSB)
7. student unions, university unions (e.g. UCU) and think tanks (e.g. WonkHe) all of which take an interest in fast-track degrees and 'the student experience'
8. the Society of Research in Higher Education (SRHE) since it is '*concerned to advance understanding of higher education, especially through the insights, perspectives and knowledge offered by systematic research and scholarship*' (SRHE, 2020, para 1).

Interest from the first four stakeholders is expected to result in the greatest impact. This is in terms of *'an effect on, change or benefit to the economy, society, culture, public policy or services, health, the environment or quality of life, beyond academia'*, (Research England, 2020) or put another way – the impact on the external environment. This is because these stakeholders have the capacity to implement the policy and practice recommendations identified above. Such changes to policy and practice could lead to a societal benefit where the main beneficiaries would be non-traditional students (of Law) studying on a fast-track undergraduate degree.

Stakeholders (1) and (2) are expected to be interested in the main finding from this study of triple disadvantage. The compounded disadvantage encountered by the students in this study can be understood as a form of indirect discrimination. Discourses tend to impose a 'one-size-fits-all' perspective on subjects and objects, within HE (in this case) and society more generally. Such a universal approach frequently leads to indirect discrimination in that subjects who are positioned with less power in HE and society are likely to be positioned more adversely by them. For example, schools often take a *'one size fits all approach'* (Crozier and Davies, 2007, p.309) in the way that they engage with parents. This practice was found to work against parents of south Asian heritage (ibid.). In a similar vein, discourses of intensity and employability, and narrow constructions of student as consumer, investor and/or partner were discovered to be harmful for the students in this study. Accordingly, the working-class mature students in this research were subjected to subtle networks of indirect discrimination.

The social class and age of fast-track students provided a central focus to this study. Yet, even though age, 'race' and gender (among others) are protected under the Equality Act, 2010, social class is not. Social class is a *'notoriously slippery'* (Bottero, 2009, p.8) and an almost mystical (Walton, 2010) construct but nevertheless it is a site of intense discrimination that should not be spared attention. Social class might be conceived as too controversial and troublesome for any public body to deal with effectively - to the extent that it remains *'the white elephant in the room'* (Reay, 2016, p.1). This may explain why limited data exists on social class from research carried out by the Law Society/BSB. It also does not appear to be a feature of Equality Impact Assessments carried out by public bodies. For example, the Government's report (DfE, 2019b) on the feasibility of increasing fast-track degree tuition fees to £11,100 per year fails to consider the impact of the uplift for working-class students.

Social class ought to be protected under the Equality Act because, as this study, alongside a long history of educational research demonstrates, social class matters (Mahony and Zmroczek, 1997; Archer et al., 2003; Reay et al., 2005; Bottero, 2009; Mellor, et al., 2014; Freidman et al., 2015; Reay, 2016; Mao and Feldman, 2019) and the working-classes continue to face discrimination in major sectors of society (Jack, 2019; Friedman and Laurison, 2019). The fact that social class is not protected is an important social justice issue with far reaching consequences. This investigation contributes to policy debates about whether social class should be protected under current or future legislation. Specifically, this study could usefully inform changes by public bodies that carry out EIAs. Learning from the experiences of this 'sample' of working-class students holds the potential to transform the legal external environment to the benefit of the working-classes and society more generally.

Extendibility/further research that might follow from this study

Given that this thesis focused on working-class mature students which (as highlighted in chapter four) attended to intersecting 'raced' and gendered subjectivities, a future research emphasis might concentrate exclusively on Black, Minority and Ethnic mature students studying on a fast-track Law degree. Such research is needed to provide insights into the recognized raced and aged attainment gap within HE (HESA, 2019). Attention could also be turned to *part-time* working-class mature students studying on a fast-track degree, since this group is currently experiencing difficulty in accessing HE. Chapter five underlined the difficulties experienced in accessing finance to fund study; which is more acutely felt by part-time students because criteria for student loans is stricter. They also tend to be more risk-averse to borrowing money (Callender and Thompson, 2018). Consequently, part-time students tend to experience HE differently to full-time working-class students. Further research could thus concentrate on this important, but often overlooked, student sub-group.

Chapter six unearthed how intensity discourses function. In one example, it functioned in producing an 'affective' response of mild fear. Since intensity discourses produced an 'affect' for at least one (male) student, a new question chapter six identified was: how important is 'affect' (as Ahmed 2014, conceptualises it) for male students in the legal academy? Aside from Maharg and Maughan's book (2011) *'Affect and Legal Education: Emotion in Learning and Teaching the Law (Emerging Legal Education)'*, there is very little research into the affective aspects of studying Law. More research is needed to develop understandings of the significance of an affective economy especially given the

rise in university student suicides. Affect could be investigated to consider its association with wellbeing and the mental health of university students. In particular, the role of emotion for male university students would be an important focus because men are discursively positioned as lacking emotion (Leathwood and Hey, 2009) and men experience higher rates of suicide at HE (Thorley, 2017) reflecting wider society (ONS, 2019). HE is recognised to be acutely gendered (classed and raced) (Reay et al., 2005; Burke et al., 2017); it is still extremely masculine, in terms of its culture and assessments, despite more women students having entered the academy (Leathwood and Read, 2009). Accordingly, HE has not been feminized as we are led to believe (ibid.) therefore a focus on Law as a subject discipline is significant because as a subject 'choice' it is highly gendered, for example, far fewer men study Law than women in UK universities (ibid.).

In chapter seven, I argued that the powerful subject positions flowing from an implied effect of the student(s) as consumer, investor, partner discourses were gendered and 'raced'. Hence, the hegemonic framings of the ideal student was not freely available to all. Those denied access to this coveted construction of the ideal student experience (and marginalisation and judgement) are attended to throughout this thesis. However, it could be further researched to identify dispositions towards taking up consumer, investor and or partner subjectivities. Future research could also concentrate on the possible causes of students' (non)engagement with employability activities *during* their fast-track (Law) degree. This could be designed as a comparative study comparing traditional and non-traditional students' (non)delay reasons for embarking on employability activities - on the same fast-track (Law) course but located at different HEIs.

Limitations of this study - 'blind spots' and 'blank spots'

Thomson (2012) frames research limitations as a distinction between '*blind spots*' and '*blank spots*'. For Thomson, a blind spot is something that the research and/or theoretical framework would not allow a researcher to see or say. By contrast, a blank spot is more associated with a defect or flaw in the research itself. Chapter three attends to the ways in which this research sought to ward against blind spots. This study is framed by Foucauldian theory and so rests upon the notion that refutes there is a knowable 'truth' waiting to be discovered. Rather, the fabrication of knowledge is generated discursively through discourse. Therefore, this study is limited to a specific focus on how knowledge is produced through discourse and how subjectivities are negotiated based upon their engagement with various discourses. I contend that the framework deployed is made

transparent, consistently put to work and therefore the claims that can be made are open to scrutiny. From this Foucauldian positioning the concept of a blank spot is problematic since it assumes certainty and discoverability. Blank spots then are more aligned to claims for 'truthfulness' embedded within positivist '*male-stream scholarship*' (Duriesmith, 2020, p.26). Consequently, what follows is a discussion that attends to the *blind spots* of this research.

'The subjective' has been embraced and celebrated intentionally in this research. It is consistent with the ontological and epistemological assumptions underpinning Foucauldian philosophy. Yet the subjectivity shaping this investigation could incite an unintentional 'allergic' reaction if a reader, committed to '*naïve positivism*' (Ball and Gewirtz, 1997, p.580), were to engage with it. Similarly, this study was not in pursuit of representativeness, reliability, validity, an effective sample size or other positivist objectives. Instead, and as highlighted in chapter three, what was important was the generation of authentic qualitative data that resonate with the co-constructed and subjective nature of the world (Fawcett and Hearn, 2004). Hence, no meta-narrative claims can be made from this research, some of which are observed in the previous section. As alluded to above, I was not concerned to establish causal links between objects/subjects. For example, I am not able to say that gendered identity has explicitly caused an individual to be more or less partner-like as a student. I can only ever say that there appears to be an alignment between objects/subjects.

For similar reasons I did not consider explicit effects (e.g. a teacher/institutional effect) on student outcomes. This consideration could involve an overarching research question: does the way that students are taught on a fast-track degree have a causal effect on whether they are able to finish on time? I use this as an example because, at a PhD student research conference in 2017, I was asked this very question. I initially responded that I had not considered explicit effects because it is not part of my research objective. However, upon further reflection this type of effect seems very causal which is misaligned to the theoretical framework underpinning the research. Nevertheless, another researcher in the future (using a different philosophical framework) might take up this concern, which in the context of this chapter could also constitute another area for further research.

Lastly, in the introductory chapter, I wrote that this thesis draws upon data produced at the Langham Institute, located in the South, at a particular historical-political moment in Higher Education in England. The significance of this specificity is that it represents

another blind spot in terms of time, place and space. But despite this, it constitutes a unique location that enabled me to write this thesis and contribute, even in a modest way, to the sociology of (legal) higher education.

Upon reflection: lessons learnt

The lessons to be learned from the study are methodological, theoretical and practical. Firstly, if I were to conduct this research study again, I would devote more time to the pilot (student one-to-one) interviews. In Appendix 4, I outline that the pilot interviews felt rushed and I felt great uncertainty at that stage. The fieldwork felt mechanical and clumsy reminding me of my novice status as a researcher (Ryan and Bernard, 2003; Chotiga, Crozier and Pfeil, 2010). Becoming a 'researcher' almost inevitably induces a sense of nervous anticipation of the not-known. In hindsight, devoting more time to a pilot could alleviate feelings of hurriedness and thereby create opportunities to embrace the inevitable feelings of uncertainty associated with the newness of a project. Other temporal aspects of this study provide a pause for reflection. In Appendix 6, I note that in October 2014, I recruited four undergraduate students from my Law school to take part in the pilot focus group. I conducted the focus group in a vacant teaching room, estimating that the focus group would take approximately one hour. Nonetheless, this proved to be a gross underestimation, which aided preparation for the main focus groups whereby I booked a designated space for at least two hours. Further, with the benefit of hindsight, I would have commenced the mainstage fieldwork sooner. In chapter four, I reflected on my procrastinations (of the student interviews during the mainstage fieldwork) which was partially accounted for by a sense of trepidation and 'fear'. In future research, I would be equipped with the knowledge and experience of the (inevitable) affective charges that are set in motion for the novice researcher.

Secondly, at the end of the tutor interviews, I asked '*How did you find this interview?*'. One tutor, 'Mark' (Male, 49, white British), thought that there were too many interview questions and suggest ten questions would have been more appropriate. Mark based his judgement on the interview approach he had taken in his own (recent) PhD fieldwork. Upon reflection, I concluded that asking fewer questions had the potential to generate richer data by encouraging a more probing interview style. However, the same sort of discourses that I was keen to unearth were likely to emerge because of the broad topics I sought to cover through the interviews. In the interests of how the interviews might unfold if I were to undertake this study again, I would include fewer questions with more opportunities to probe to achieve depth over breadth.

Another issue provided pause for reflection. It arose after I had conducted all (student and tutor) interviews which regarded interviewing style and specifically, note-taking during the interview (something that I did not do). The semi-structured interviews included both closed and open-ended questions. When asking the open-ended questions, I concluded that I should have followed the respondents' own ordering and phrasing of words and expressions. For example, one of my open questions was: *'Can you tell me a bit about your life?'*. In relation to responses to questions such as these, I could have asked respondents to expand on relevant points in the order in which they outlined them by using their words as much as possible. But even though the interviews were audio-recorded, this would have required brief notes to be taken during each interview. Theoretically such an approach would have allowed the respondents' *'gestalt'* or *'meaning-frame'* (Hollway and Jefferson, 2000, p.xxx) to be elicited, rather than simply searching for discourses. *Gestalt* informs *'each person's life'* and it is *'the job of the biographer to elicit intact'* the respondent's *gestalt* which researchers should *'not destroy through following their own concerns'* (ibid., p.xxx). It would also have allowed me to explore more fully the respondents' answers (ibid.). I was not in search of a respondent's hidden agenda since this implies a universal truth exists waiting to be uncovered. This begs a question: epistemologically, is interview data capable of being hidden from an absolute truth 'out there' waiting to be discovered (Foucault et al., 1990)? As discussed in chapters three and four, an assumption that underpins Foucauldian inspired research suggests that it is not possible. There is no such thing as data capable of being hidden/distorted, as there is no absolute truth (ibid.). The only truth that exists is partial, co-constructed, and location specific (Walkerdine, 1990; Archer et al., 2003; Jackson and Mazzei, 2012). Thus, even though ordering and notetaking is theoretically incompatible with this research it might, nonetheless, be suitable for research framed by a different philosophical tradition. Ordering and notetaking hold certain potential, both of which are worth considering for future research.

Providing the interview schedule ahead of meeting the respondents effectively managed expectations and allayed fears. That said, I did not pre-disclose interview schedules until the tenth student interview, when it was requested by the respondent. 'Michael' (a black, working-class, male, aged 28) was encouraged to participate by encountering the interview questions ahead of the meeting. I agreed to his request to see the questions in advance for both practical and theoretical reasons. I considered it acceptable because my theoretical positioning is not in search of a knowable truth to be extracted from respondents. In future research I would also implement pre-disclosure for focus groups

as it provides an effective means of managing the expectations that a focus group has and can facilitate the flow of discussion.

Unexpected mishaps occurred throughout the life of the study. As stated in chapter four, an interview with a student participant ('Kiara') was not captured on tape because I inadvertently overlooked to switch on the recorder. I reflected immediately upon this because, at the time it felt like 'a mini disaster'. Initially I considered typing it up from memory. But, as remarked above, I did not take notes during the interviews so I would be entirely reliant upon my recollection of her narrative. Hence, much of the detail and nuance risked being lost. I briefly considered doing this and then requesting Kiara review my notes to add detail or corrections. Given the careful answers she had provided during the interview this felt disrespectful and so I contacted Kiara to request that we repeat the interview. She was more than happy to do so. Thus, a repeat audio-recorded interview took place the following week. This approach was both the most practical and ethical solution to the problem. Though accusations that distorting the interview data by re-interviewing Kiara could be waged, given the theoretical orientation of this research, I considered it not to be an issue. As noted in chapter four (and in relation 'Michael' above), my theoretical approach defends this research choice; since post-structuralist approaches contend that an absolute truth does not exist waiting to be discovered (or distorted). Truths from this theoretical positioning are always understood as partial, co-constructed, and context specific (Walkerdine, 1990). The incident highlighted the need to be aware of the significance of recording data consistently and thereby avoiding taking up valuable extra time from, the already over stretched, student respondents. Accordingly, I inserted the prompt 'Switch on recorder' in red font on my focus group topic guide (see Appendix 5) and guide for the tutor interviews (see Appendix 7).

Notwithstanding these points for reflection, this study was made possible by my subjective investments in the topic and my personal/professional experiences as a mature, (once) working-class Law student. It has sought to make known some hidden problematics, challenges and injustices that are routinely encountered but hidden from view through seemingly benign policy rhetoric. I hope that this modest investigation can go some way to make a difference to the lives of students who find themselves discursively positioned in ways that exaggerate their sense of disadvantage (three-fold).

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Appendices

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Appendix 1

Gatekeeper email letter

[Date] 2014

Dear [name]

As you are aware, I am a doctoral research student at The Institute for Policy Studies in Education (IPSE), based at London Metropolitan University²⁰. After a successful pilot study, I now intend to carry out the main study on the experience of students who study on a 2-year Law degree. I am interested in interviewing Law students (aged 21 or over) who are the first generation in their family to study for a degree (i.e. students of parents who did not have the opportunity to study for a degree). I am writing to you, therefore, to see if you would be happy for me to conduct this main study at the Langham Institute (LI).

Like the pilot, the main study aims to explore how working-class, mature students experience their 2-year Law degree. As you know, studying for a Law degree on a 2-year programme is a relatively new way for students to obtain their undergraduate qualification. Consequently, very little is known about fast-track Law degrees and how students experience their studies. 'The student experience' is also an area, in legal higher education, which is currently under-researched.

This main study will involve:

1. an interview with about 12 Law students. I will interview students individually on a face-to-face basis. The interview will last approximately 1-hour and it will take place at a time that minimises disruption to their classes;
2. two Law student focus groups;
3. an interview with about 6 Law tutors (conducted in a similar way to the student interviews, above); and
4. informal observations of the Law school's practices.

All interviews/focus groups will be audio recorded, but these recordings will be confidential and will only be used by me. I may decide to use an agency for transcription purposes. However, the agency will be obliged to keep the data confidential via a confidentiality agreement and also pursuant to Data Protection legislation. Recordings will be stored in electronic format but will not be identifiable except by code. All data will be stored in password protected files. The students' and tutors' personal details will be kept anonymous, because they will be given a pseudonym. Additionally, when I write up the findings from this main study the name of [real name of institution] will be changed so that the confidentiality of [real name of institution] and the students/tutors will be ensured. Nonetheless, the information they provide in this main study may be used in later publications written from the main study.

²⁰ This is where I commenced the study. In late 2015, I transferred to Middlesex University.

I would plan to carry out the interviews and focus groups in this spring and summer semesters 2014. But, if at any point the LI decides that it no longer wishes to take part then it does not have to continue, and the students' responses can be withdrawn. I am happy to meet with you and/or xxx to discuss this request and answer any questions that you may have. If you have any other questions, then please contact Professor Jayne Osgood (my doctoral supervisor at IPSE) on j.osgood@londonmet.ac.uk or on 020 7320 1000.

I hope to hear from you soon.

Regards

Stuart

Appendix 2

Student invitation email letter

[Date] 2014

Dear [name]

Research on the experience of students who study on a 2-year Law degree

I am a doctoral research student at The Institute for Policy Studies in Education (IPSE), based at London Metropolitan University. I am carrying out a study on the experience of students who study on a Law degree. I am interested in interviewing Law students (aged 21 or over) who are the first generation in their family to study for a degree (i.e. students whose parents did not have the opportunity to study for a degree).

The study aims to explore how Law students experience their 2-year degree. Studying for a Law degree on a 2-year 'fast-track' programme is a relatively new way for students to obtain their undergraduate qualification. Consequently, very little is known about fast-track Law degrees and how Law students experience their studies. 'The student experience' is also an area, in legal higher education, which is currently under-researched. It is also a worthy research area because despite the expansion of higher education in recent years, students who are the first generation in their family to study for a degree are still under-represented within higher education.

A potential benefit of your participating in this research is that you can see research 'in action' and relate my research methods to your own research that you may do for your dissertation. Incidentally, this study will form the basis of my doctoral thesis.

Participation in this study is entirely voluntary and it will involve an interview with Law students at the Langham Institute (LI). I will interview students individually on a face-to-face basis. The interview will last approximately 45 mins to 1-hour and it will take place at a time that minimises disruption to your classes.

I am writing to you, therefore, to see if you are willing to participate in this research. This will take place at LI, (or somewhere else, if you wish) in the [season] semester 2014. However, if at any point you decide you no longer wish to take part in this study then you do not have to continue, and your responses can be withdrawn. If you withdraw, you do not have to give any reason for withdrawing.

If you would like to take part in this study, please contact me on: s.peck@londonmet.ac.uk (or stu.peck@yahoo.co.uk). Alternatively, if you have any questions before you can decide to participate please contact me, in the first instance. If you have any further questions about this study then please contact Professor Jayne Osgood (my doctoral supervisor at IPSE) on j.osgood@londonmet.ac.uk or on 020 7 320 1000.

I hope you can help. Thanks very much.

Stuart Peck

Information Sheet - student interviewees

This sheet gives you some more information about the study (which you can keep for your own reference):

Why have I asked you to be interviewed?

I am carrying out a study on the experience of students who study on a Law degree. I am interested in interviewing Law students (aged 21 or over) who are the first generation in their family to study for a degree (i.e. students whose parents did not have the opportunity to study for a degree).

What I'm researching and why

The study aims to explore how Law students experience their 2-year degree. Studying for a Law degree on a 2-year 'fast-track' programme is a relatively new way for students to obtain their undergraduate qualification. Consequently, very little is known about fast-track Law degrees and how Law students experience their studies. 'The student experience' is also an area, in legal higher education, which is currently under-researched. This study will form the basis of my doctoral thesis.

Voluntary and Duration

Participation in this study is entirely voluntary and it will involve an interview with Law students at LI. I will interview students individually on a face-to-face basis. The interview will last approximately 1-hour and it will take place at a time that minimises disruption to your classes.

Confidential and Anonymous

Even though I am a Law tutor and clearly connected to the Langham Institute, it does not know who has agreed to participate in this research and who has not. And agreeing/not agreeing to participate will not affect any assessment grade you may receive. The interview will be audio recorded, but these recordings will be confidential and will only be used by me. I may decide to use an agency for transcription purposes. However, the agency will be obliged to keep the data confidential via a confidentiality agreement and also pursuant to Data Protection legislation. Recordings will be stored in electronic format but will not be identifiable except by code. All data will be stored in locked or password protected files. Your personal details will be kept anonymous, because you will be given a pseudonym. Additionally, when I write up the findings from this study the name of your institution will be changed so that the confidentiality of students will be ensured and the information you provide in this study may be used in later publications written from the main study. Further, the information you provide will only be used for the research in question (and subsequent publications), and not passed on.

Your right to withdraw

If at any point you decide you no longer wish to take part in this study then you do not have to continue, and your responses can be withdrawn (without giving any reason(s)).

Consent form

If you would like to take part in this study, please complete the consent form. A signed copy can be sent to you after the interview.

More information?

Please contact me on: s.peck@londonmet.ac.uk in the first instance if you require any more details about this study. If you have any other questions then please contact Professor Jayne Osgood (my doctoral supervisor at IPSE) on j.osgood@londonmet.ac.uk or on 0207 320 1000.

Consent form for a study on the experience of students who study on a 2- year Law degree.

Your name:

Your group:

I agree / do not agree **[please delete as appropriate]** to take part in this study.

I understand my contribution will be voluntary, confidential and anonymous. I also understand that I can withdraw from the study (or withdraw my contribution) at any time, without giving any reason.

Signed

Date2014

Email address:

Appendix 3

Interview guide - students

Introduction

- Go through information letter with R (to include purpose, confidentiality and anonymity)
- Ok to record?
- Any Qs before we start?
- Brief overview of interview [background, deciding to do Law, your Law degree experience]

Background

Tell me about your life:

- | | |
|---|---|
| <ul style="list-style-type: none"> • where grew up • your family life • your school life • parents' education • age? | <ul style="list-style-type: none"> • ethnicity: how do you identify your ethnicity? • class: how do you identify your social class? • gender: how do you identify your gender? |
|---|---|

Why Law/fast-track at LI?

- Tell me about how you arrived at deciding to do:
 - a Law degree
 - on a fast-track basis
 - at LI
- What do your family and friends think about you doing a: 2-year degree, in Law, at LI? [probe: 2 years/Law/LI]
- How do you view this institution in comparison to other places? [prompt: friends/family/previous HEI?]
- Do you know other people who go/have been to university? [probe: where did they go? what did they think?]

Your Law degree

- Tell me about the sort of things you have heard or read: about 2-year fast-track Law degrees [prompt: good or bad, circumstances when heard/read]
- Tell me the factors that are important to you in assessing your experience as a student studying on a 2-year Law degree? [prompt: not important?]
- Can you tell me a bit about your experience(s) of your Law degree so far? [prompt: good and bad]
- What do you think of the: classrooms; building; and surrounding area?
- How would you describe your approach to study and learning [prompt: independent, dependent, both?]
- Where are you now in degree? [Prompt: 1st or 2nd year/level: 4,5,6?]
- What are you planning to do after your Law degree? [prompt: LPC/BVC/LLM/work]

Endings

- Anything else you'd like to add?

- How did you find this interview? [Qs easy to understand? Any improvements?]
- Interested in taking part in a FG?
- Your alias?

Appendix 4

Reflections on the pilot interviews with students

- In June 2013, I interviewed two fast-track Law students. I practised getting the interviews transcribed; analysing (using analytical memos [AMs]) and coding (using a fused general inductive and a Foucauldian informed discourse analysis approach) the interview data to generate discursive themes.
- Upon reflection, I did not really enjoy the pilot: it all felt a bit rushed and did not quite know, at that stage, how it would all come together. It all just felt a bit mechanical and slightly clumsy (it reminded me of when I was learning to drive!).
- But now (the summer of 2014) I'm in the throes of the fieldwork for the main study, I found that the pilot was a crucial stage to go through because it has really prepared me for what I'm doing now.
- So what did I learn and how did the pilot prepare me?

1. The importance of analysis 'as I go'

After each interview for the main study, I now begin analysing the interview data by writing analytical memos etc. in the margin of the transcript. Why? So that the job of analysis is not all left to the end where it may become overwhelming, but potentially also in order '*to inform further data collection*' (Leathwood, 2006, p. 618). These memos will provide the foundations of analysis, which will form part of the data chapters in the final thesis. For example, I asked one of my respondents 'Robert' (working class, 35, male, white, Eastern European): '*Can you tell me a bit about your experience of your Law degree here so far?*' In relation to his response, I wrote an AM along the following lines:

Robert:

Yes like I've said, it's been really easy, it has been really easy. I don't really have to study a lot, which I should study a lot more, but since my son was just born a few months ago, six months ago, then he has all my attention right now and I'm still... like a new-born baby, he's crying all the time, he needs attention and I'm still able to stay in the high 2-1 range, which just, you know, adding my English skills to that, just tells you that it's really... it's too easy, way too easy to get a Law degree. And I can see how other students get good results for basically mediocre stuff.



Analytical memo:

My initial reaction to this is that it's quite arrogant. Why do I think that? There seems to be a 'discourse of rigour' that he draws upon. Where does he get this from? What other discourses is this similar to? HEIs use a 'discourse of rigour' a lot also. [Is he comparing it to what he knows about Unis in Hungary: he later talks about no cwk, unannounced mock exams?]

His discourse is constructed in terms of an easy/difficult binary opposition where '*One side achieves definition...through its difference with respect to a (constructed) 'Other' which is always lacking, lesser or derivative in some respect*' (MacLure, 2003, p.10). He mentions 'easy' a lot elsewhere too. Where are the contradictions within this binary?

The discourse seems to be working on him in that if he finds his LLB easy, then it can't be rigorous. He seems to see his FT degree as a 'lesser'/inauthentic degree. A powerful effect/consequence of the discourse is that he later says (in the interview) that he has decided that going into the legal profession is now not for him, because employers won't treat students from [LI] seriously. This positions him studying for an inauthentic degree and not worthy of the legal profession.

Can this be linked to the research (Crozier et al., 2008) that shows that mature students are often disadvantaged at HE because of care commitments? He seems to be saying the opposite of what they found. Would a female respondent say the same thing? Is his last sentence a form of 'abject Othering'? Is he really talking about himself?

After each interview, I also now code the data by taking a general inductive approach (Thomas, 2003) fused with a Foucauldian informed discourse analysis approach. The codes are then used to generate themes. For example, one can see that approach being taken here:

'Robert'	
Initial Codes (temporary constructs) for Robert	Robert's context, and where text located
Discourse (of rigour/standards)	Your SE so far? Too easy (at LI), he gets marks in 2.1 band, has a young child, WD: 341-348

2. **Richer data and probing:** some of the feedback from the pilot was that I needed to make my interviews longer. They lasted only about 20 mins in the pilot. In the main study, I now aim for 45-minutes to an hour in order to generate 'richer' data. I have done this by adding more questions (of the type that I'm interested in) to my interview schedule and I also try to delve/probe more in my interview style.

3. **Reflections 'as I go' in my research diary:** the pilot got me used to reflecting upon what I am doing and recording and reflecting upon the fieldwork decisions that I am now taking in the main study. For example, and returning to the coding of interview data, I have decided to code manually rather than using Nvivo. I decided to code manually because I have never used Nvivo before. So that clearly was a practical decision. But in order to create a slightly more theoretically informed decision, I decided to code manually because of the ontological assumptions underpinning my theoretical framework. One assumption is that reality/society is very fluid and has no fixed structures, so for me coding manually would be consistent with that fluidity rather than 'plugging' my data into a machine (using Nvivo), which for me seemed a bit too much of a fixed structure.

Appendix 5

Focus Group 'topic guide'

Aims, Rules and Ethics

- Aims - reasons for research
- OK to record?
- Ground rules:
 - What I want from you
 - People talking over each other
 - Please say your name every time you speak
- Confidentiality and Anonymous
- Voluntary, withdrawal and duration
- Areas to be covered

[Switch on recorder]

Introductions

Student Experience

Tell me a bit about:

- What it's like being a fast-track Law student
- your Law degree
- studying in [area]
- your future careers aspirations

'This Life'

- Brief overview of the (1996) drama
 - Play clip of Egg
 - Play clip of Milly
 - Play clip of Miles
 - Play clip of Ann
- After each clip, ask the group:
 - Any thoughts on that clip? everyone agree?
 - How does this relate to your expectations/experiences of a career in Law? Why?
- After all (4) clips are shown, ask the group:
 - Which character do you identify with the most/least? Why?

Endings

- Anything else to add?
- How did you find it?
- Thank you for taking part

Appendix 6

Reflections on the (pilot) focus group with students

In October 2014, I recruited four Law degree students (1 male and 3 female: 'Liam', 'Jackie', 'Linda', 'Carol') from my own Law school at [university] to take part in the pilot focus group. I did not teach the students and did not know them. Upon recruiting them, I took them into a nearby teaching room that unfortunately I had not booked, but I could see that the room was free. Before the pilot, I estimated that it would take approximately one hour. That was a slightly inaccurate time estimate as I was not able to finish the focus group within that time. I had intentionally omitted one of my questions e.g. 'Tell me a bit about your future careers aspirations' at the end in order to finish 'on time'. Therefore, in preparation for the main focus groups, I increased the estimated time for the focus group to 90 minutes – and this proved to be more accurate.

At the start of the pilot focus group, I felt prepared albeit a little nervous. I tried to keep the pilot informal and relaxed. I felt that my outline of the research aims, ground rules, and ethics was effective in that it was clear and it flowed. Throughout the pilot, I used my focus group topic guide flexibly (which arguably reflects the ontological assumption of societal fluidity underpinning my main theoretical framework: Weedon, 1994; Archer et al., 2003). For example, I went through topic areas in a different order than that recorded on the guide and I did not deal with all the topics for discussion. On a practical level, I did this because I was a little worried that I would run out of time and/or another class would enter our room within the hour. This would have prevented me from piloting the video clips, which was a major concern of mine. After the pilot, I reflected upon this, and in preparation for the main focus groups, I decided to book a classroom for at least 2 hours.

Initially, during the pilot focus group discussion of the video clips, I noticed that when I made direct eye contact with the participants they often directed 'their talk' at me rather than the others in the group. This inevitably encouraged me to start nodding, and moreover, made me aware that participants may have interpreted the nodding as my approving what they were saying. I also considered that it would not have been in the spirit of one of the 'ground rules' outlined to them at the start, which was: *'...there's no right or wrong answer and I want you to discuss things with each other'*. I, thus, spontaneously experimented with looking down at my topic guide after posing a question to the group. This, I discovered, generated more discussion between the participants. I found that because I had reduced eye contact with the participants, they had no one else to direct 'their talk' to except the other participants. After the pilot, I reflected upon this practice and considered that it would require some explanation at the start of the main focus groups about my role as facilitator. And so, at the start of the main focus groups, I added some verbalization to the 'ground rules' as follows: *'...my role is to facilitate the discussion between you, I will be taking a few notes as you discuss things, so I may not always be looking at you when you talk about things'*.

Appendix 7

Interview guide – tutors

Introduction

- Go through information letter with R (to include purpose, confidentiality and anonymity)
- Ok to record?
- Any Qs before we start?
- Brief overview of interview [see headings below]

[Switch on recorder]

Background

Can you tell me a bit about your life:

- where grew up
- your family life
- your school life
- parents' education
- age?
- how do you identify your: ethnicity; class; gender?
- How long have you taught (did you teach) on the FT Law degree at LI?

Your views and experiences of Law

Can you tell me a bit about:

- what you think is the purpose/value of education generally
- what you think is the purpose/value of legal (higher) education
- your views on the various pathways in obtaining a Law degree [probe/prompt: the relative merits of ST v FT]
- your own legal journey, so far [prompt: in practice/teaching, or both]
- how teaching Law compares with practising Law
- your experiences (if any) in practice [probe: reasons for withdrawing; how accessible/comfortable for graduates from w/c, female, BME backgrounds etc].

Law on the FT at the Langham Institute (LI)

Can you tell me a bit about what you think it is that makes students decide to do:

- a Law degree
 - on a fast-track basis
 - at LI
- Generally, what do you think the public perception is of:
 - Law degrees (generally)
 - 2 years degrees (generally)
 - LI
 - what do you think informs those perceptions?
- What do you think about the LLB at LI? [prompt and probe: employability, deficit (lacking resources)]
- How does LI compare with other institutions?
- Are particular types of Law students drawn to LI?
- What do/did you think about working at LI?

The students' (Law degree) experience

LI's own marketing (e.g. prospectus/website) says that its Law degree:

- is '*intensive*'
- is '*highly respected*'

- gives students '*a broad range of career options*'

what do think about each of those?

Can you tell me a bit about:

- how you think MSs experience their FT Law degree at LI?
- how you think 1st GE students experience their FT Law degree at LI?
- what do you think of the: classrooms; building; and surrounding area?
- how would you describe your approach to teaching and learning [prompt: encourage independence, dependence, both?]

Endings

- Anything else you'd like to add?
- How did you find this interview?
- Your alias?

Appendix 8

How I coded my interview data

1. Drawing upon the work of Thomas (2003), I marked up a version of each interview transcript with temporary constructs/codes (in the margin).
2. I identified Foucauldian informed discourses (largely based on my own reading) to generate 'discursive' temporary constructs/codes (e.g. intensity, consumerist, employability, deficit, standards/dumbing down, meritocracy, hierarchy of universities, economisation, rigour).
3. Drawing upon the work of Ryan and Bernard (2003), I used word-based techniques and selected (rather intuitively) action words repeated in the texts (e.g. 'to listen' etc which I nominalized to 'listening'. I also used scrutiny-based techniques (i.e. social science questions e.g. time/space/place, knowledge/power, social justice issues) to generate other types of temporary constructs/code.
4. I placed each temporary construct into the first column of a table of codes.
5. In the second column, I gave each temporary code a context and also indicated which line in the interview transcript the data is located.
6. Interviews produced between 40 and 77 temporary constructs/codes.
7. Using the work of Thomas (2003), I fused the temporary constructs/codes to produce between 3 and 8 second level codes.
8. From the above, I generated 5 interview discourses – three of which were: intensity, consumerism/investor/partner, and employability.
9. I selected excerpts from the interview data to be analysed. I aimed to select:
 - a. the most interesting quotes to capture the essence of the discourses; and
 - b. data where theory/the research literature could be put to work.
10. In constructing the data chapters for the thesis, and drawing upon Thomas (2003), I have used the discursive themes to head up the data chapters.

Free nodes/codes:

These were codes that I was not able to group easily. They amounted to 'anything interesting' (e.g. hope)